

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 7.1

DATE: September 14, 2011

ACTION REQUESTED: Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

REQUESTED BY: Richard Rice, Chairperson
Legislative Committee

BACKGROUND:	<u>Assembly Bills</u>	<u>Senate Bills</u>
	AB 1424	SB 161
		SB 538
		SB 541
		SB 747

NEXT STEP: Place on Board Agenda

FINANCIAL IMPLICATION, IF ANY: None

PERSON TO CONTACT: Kay Weinkam, NEC and Legislative Liaison
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**BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2011
September 14, 2011**

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
AB 30	Hayashi	Health facilities: security plans	--	Support	Assembly Appropriation
AB 40	Yamada	Elder abuse: reporting	--	Watch	Senate Human Services
AB 661	Block	Public postsecondary education: community college districts: baccalaureate degree pilot program	Watch	Watch	Inactive
AB 675	Hagman	Continuing education	--	Oppose	Assembly BP&CP
AB 888	Pan	Pupil health: School Medication Authorization Task Force	--	--	Assembly Education
AB 958	Berryhill	Regulatory boards: limitations periods	--	--	Assembly BP&CP
AB 1424	Perea	Franchise Tax Board: delinquent tax debt	--	--	Senate

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

**BOARD OF REGISTERED NURSING
SENATE BILLS 2011
September 14, 2011**

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
SB 65	Strickland	Pupil health: prescription pancreatic enzymes	--	Watch	Senate Health
SB 100	Price	Healing Arts	--	Watch	Enrollment
SB 161	Huff	Schools: Emergency Medical Assistance: administration of epilepsy medication	Oppose	Oppose	Enrollment
SB 393	Hernandez	Medical homes	--	--	Assembly Health
SB 538	Price	Nursing	Support Sponsor	Support Sponsor	Senate pending concurrence with Assembly Amendments
SB 541	Price	Regulatory boards: expert consultants	Support	Support	Enrollment
SB 544	Price	Professions & Vocations: regulatory boards	--	--	Senate BP&ED
SB 747	Kehoe	Continuing education: lesbian, gay, bisexual, and transgender patients	Oppose	Oppose	Enrollment
SB 943	Price	Healing Arts	--	Support	Enrollment

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 14, 2011
BILL ANALYSIS**

AUTHOR:	Perea	BILL NUMBER:	AB 1424
SPONSOR:	Perea	BILL STATUS:	Senate
SUBJECT:	Franchise Tax Board: delinquent tax debt	DATE LAST AMENDED:	9/2/11

SUMMARY:

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to each delinquency.

Existing law requires every board, as defined, and the Department of Insurance, upon request of the Franchise Tax Board, to furnish to the Franchise Tax Board certain information with respect to every licensee.

ANALYSIS:

This bill, among other provisions, would:

- Requires the State Board of Equalization and the Franchise Tax Board to each make available a list of the **500** largest tax delinquencies at least **twice** each calendar year.
- Require the Franchise Tax Board to include additional information on the list with respect to each delinquency, including the type, status, and license number of any occupational or professional license held by the person or persons liable for payment of the tax, and the names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation.
- Require a person whose delinquency appeared on either list and whose name has been removed to comply with the terms of the arranged resolution, authorize the State Board of Equalization and the Franchise Tax Board, if the person fails to comply with the terms of the arranged resolution, to add the person's name to the list without providing prior written notice.

- **Permit** a state governmental licensing entity that issues professional or occupational licenses, certificates, registrations, or permits, to suspend, revoke, or refuse to issue a license if the licensee's name is included on either list of the 500 largest tax delinquencies.
- Require those licensing entities to provide to the State Board of Equalization and the Franchise Tax Board the name and social security number or federal taxpayer identification number of each individual licensee of that entity, and would require each application for a new license or renewal of a license to indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board, and requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid.
- Require the State Board of Equalization and the Franchise Tax Board, if an individual licensee appears on either list of the 500 largest tax delinquencies, and the licensing entity has not made a decision regarding suspension or revocation of the license, to send a notice of suspension to the licensee.
- Provide for the license of a licensee who fails to satisfy the unpaid taxes by a certain date to be automatically suspended, and would require the State Board of Equalization or the Franchise Tax Board to mail a notice of suspension to the applicable state governmental licensing entity and to the licensee. The suspension would be canceled upon compliance with the tax obligation.
- Prohibit a state agency from entering into any contract for the acquisition of goods or services with a contractor whose name appears on either list of the 500 largest tax delinquencies described above.

Amended analysis as of 8/15/11:

This bill as amended would, among other things:

- Require the State Board of Equalization to make available on a quarterly basis its list of the 500 largest tax delinquencies.
- Require each state governmental licensing entity to update its records to reflect the suspension upon receipt of notice of suspension from the State Board of Equalization (BOE) or the Franchise Tax Board (FTB).
- Authorize the BOE and the FTB to disclose to state agencies identifying information of persons appearing on the list of the 500 largest tax delinquencies.

The provisions of the bill would become effective on or after January 1, 2012.

Amended analysis as of 8/18/11:

This bill as amended would, among other things:

- Require the state government licensing entity to collect social security numbers and federal taxpayer identification numbers of each individual applicant for purposes of matching those applicants' names with names on the lists provided by the DOE and FTB.
- Delete the provision for the state governmental licensing entity to decline to exercise authority provided by this law. Require the state governmental licensing entity to suspend, revoke, and refuse to issue a license if the licensee's name is included on either list of the 500 largest tax delinquencies. Would delete the BOE or the FTB as the originator of the notice of suspension sent to the licensee.
- Requires the Department of Consumer Affairs to take appropriate action in the event that any of the boards, bureaus, or commissions within the agency fails to act.
- Mandate that the BOE and the FTB submit the respective lists to every state governmental licensing entity. Authorize the BOE and the FTB to disclose to state governmental licensing entities identifying information on persons whose names appear on the lists.
- Include sales or use tax, or a similar tax, as a tax debt which can be collected on behalf of other states or the IRS.

The provisions of the bill would become effective on or after July 1, 2012.

Amended analysis as of 8/31 and 9/2/11:

This bill, as amended, would:

- Require that a state governmental licensing entity that discloses on its Web site or in other publications that a licensee has had a license denied or suspended, or has been granted a temporary license, shall prominently disclose, in bold and adjacent to the information related to the status of the license, that the only reason action was taken was because the licensee failed to pay taxes.
- Provide that action taken under this law does not constitute denial or discipline of a licensee for purposes of any reporting requirements to the National Practitioner Data Bank and shall not be reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank.
- Require that information related to the suspension or revocation of the applicant's or licensee's license be purged from the state governmental licensing entity's Web site or other publication within three business days upon release from the certified list.

BOARD POSITION:

**LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Oppose unless amended
(8/10/11)**

SUPPORT:

California Tax Reform Association
Western Center on Law and Poverty

OPPOSE:

California Association of Realtors
California Chapter of the American Fence Association
California Fence Contractors Association
Engineering Contractors Association
California Landscape Contractors Association
Marin Builders Association
Flasher Barricade Association

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE AUGUST 31, 2011

AMENDED IN SENATE AUGUST 18, 2011

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 7, 2011

AMENDED IN SENATE JUNE 6, 2011

AMENDED IN ASSEMBLY MAY 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1424

Introduced by Assembly Member Perea

March 22, 2011

An act to amend Sections 31 and 476 of, and to add Section 494.5 to, the Business and Professions Code, to add Section 12419.13 to the Government Code, to add Section 10295.4 to the Public Contract Code, to amend Sections 7063, 19195, and 19533 of, to add Sections 6835, 7057, 7057.5, 19377.5, 19571, and 19572 to, to add Article 9 (commencing with Section 6850) to Chapter 6 of Part 1 of Division 2 of, and to add Article 7 (commencing with Section 19291) to Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, and to add Section 34623.1 to the Vehicle Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1424, as amended, Perea. Franchise Tax Board: delinquent tax debt.

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to each delinquency. Existing law requires every board, as defined, and the Department of Insurance, upon request of the Franchise Tax Board, to furnish to the Franchise Tax Board certain information with respect to every licensee.

This bill would require the State Board of Equalization, quarterly, and the Franchise Tax Board, at least twice each calendar year, to make available a list of the 500 largest tax delinquencies described above. This bill would require the Franchise Tax Board to include additional information on the list with respect to each delinquency, including the type, status, and licence number of any occupational or professional license held by the person or persons liable for payment of the tax and the names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. This bill would require a person whose delinquency appeared on either list and whose name has been removed, as provided, to comply with the terms of the arranged resolution, and would authorize the State Board of Equalization and the Franchise Tax Board, if the person fails to comply with the terms of the arranged resolution, to add the person's name to the list without providing prior written notice, as provided.

This bill would require a state governmental licensing entity, other than the Department of Motor Vehicles, *State Bar of California*, and *Alcoholic Beverage Control Board*, as provided, that issues professional or occupational licenses, certificates, registrations, or permits, to suspend, revoke, and refuse to issue a license if the licensee's name is included on either list of the 500 largest tax delinquencies described above. This bill would not include the Contractors' State License Board in the definition of "state governmental licensing entity." This bill would also require those licensing entities to collect the social security number or federal taxpayer identification number of each individual applicant of that entity for the purpose of matching those applicants to the names on the lists of the 500 largest tax delinquencies, and would require each application for a new license or renewal of a license to indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board and

requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid. This bill would also authorize the State Board of Equalization and the Franchise Tax Board to disclose to state governmental licensing entities identifying information, *as defined*, of persons on the list of 500 largest tax delinquencies, as specified. This bill would authorize a motor carrier permit of a licensee whose name is on certified list of tax delinquencies to be suspended, as provided. The bill would require the State Board of Equalization and the Franchise Tax Board to meet certain requirements and would make related changes.

The bill would provide that the release or other use of information received by a state governmental licensing entity pursuant to these provisions, except as authorized, is punishable as a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

This bill would also prohibit a state agency from entering into any contract for the acquisition of goods or services with a contractor whose name appears on either list of the 500 largest tax delinquencies described above.

Existing law authorizes the Franchise Tax Board to collect specified amounts for the Department of Industrial Relations and specified amounts imposed by a court pursuant to specified procedures.

This bill would authorize the State Board of Equalization and the Franchise Tax Board to enter into an agreement to collect any delinquent tax debt due to the Internal Revenue Service or any other state imposing an income tax, or a tax measured by income, or a sales or use tax, or a similar tax, pursuant to specified procedures, provided that the Internal Revenue Service or that state has entered into an agreement to collect delinquent tax debts due to the State Board of Equalization or the Franchise Tax Board, and the agreements do not cause the net displacement of civil service employees, as specified. This bill would require the Controller, upon execution of a reciprocal agreement between the State Board of Equalization, the Franchise Tax Board, and any other state imposing a sales and use tax, a tax similar to a sales and use tax, an income tax, or tax measured by income, to offset any delinquent tax debt due to that other state from a person or entity, against any refund under the Sales and Use Tax Law, the Personal Income Tax Law, or the Corporation Tax Law owed to that person or entity, as provided.

Existing law requires, in the event that the debtor has more than one debt being collected by the Franchise Tax Board and the amount

collected is insufficient to satisfy the total amount owed, the amount collected to be applied to specified priorities.

This bill would include specified tax delinquencies collected pursuant to this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31 of the Business and Professions Code
2 is amended to read:

3 31. (a) As used in this section, “board” means any entity listed
4 in Section 101, the entities referred to in Sections 1000 and 3600,
5 the State Bar, the Department of Real Estate, and any other state
6 agency that issues a license, certificate, or registration authorizing
7 a person to engage in a business or profession.

8 (b) Each applicant for the issuance or renewal of a license,
9 certificate, registration, or other means to engage in a business or
10 profession regulated by a board who is not in compliance with a
11 judgment or order for support shall be subject to Section 17520 of
12 the Family Code.

13 (c) “Compliance with a judgment or order for support” has the
14 meaning given in paragraph (4) of subdivision (a) of Section 17520
15 of the Family Code.

16 (d) Each licensee *or applicant* whose name appears on a list of
17 the 500 largest tax delinquencies pursuant to Section 7063 or 19195
18 of the Revenue and Taxation Code shall be subject to Section
19 494.5.

20 (e) Each application for a new license or renewal of a license
21 shall indicate on the application that the law allows the State Board
22 of Equalization and the Franchise Tax Board to share taxpayer
23 information with a board and requires the licensee to pay his or
24 her state tax obligation and that his or her license may be suspended
25 if the state tax obligation is not paid.

(f) For purposes of this section, “tax obligation” means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7285 7280), Part 10 (commencing with Section 17001), ~~and~~ *or* Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

SEC. 2. Section 476 of the Business and Professions Code is amended to read:

476. (a) Except as provided in subdivision (b), nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

(b) Section 494.5 shall apply to the licensure of persons authorized to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3, and the licensure or registration of persons pursuant to Chapter 5 (commencing with Section 19800) of Division 8 or pursuant to Division 9 (commencing with Section 23000).

SEC. 3. Section 494.5 is added to the Business and Professions Code, to read:

~~494.5. (a) A state governmental licensing entity, other than the Department of Motor Vehicles, shall refuse to issue, reactivate, reinstate, or renew a license and shall suspend a license if a licensee’s name is included on a certified list. The Department of Motor Vehicles shall suspend a license if a licensee’s name is included on a certified list. Any reference in this section to the issuance, renewal, or denial of a license shall not apply to the Department of Motor Vehicles.~~

494.5. (a) (1) Except as provided in paragraphs (2), (3), and (4), a state governmental licensing entity shall refuse to issue, reactivate, reinstate, or renew a license and shall suspend a license if a licensee’s name is included on a certified list.

(2) The Department of Motor Vehicles shall suspend a license if a licensee’s name is included on a certified list. Any reference in this section to the issuance, reactivation, reinstatement, renewal, or denial of a license shall not apply to the Department of Motor Vehicles.

1 (3) *The State Bar of California may recommend to refuse to*
2 *issue, reactivate, reinstate, or renew a license and may recommend*
3 *to suspend a license if a licensee's name is included on a certified*
4 *list. The word "may" shall be substituted for the word "shall"*
5 *relating to the issuance of a temporary license, refusal to issue,*
6 *reactivate, reinstate, renew, or suspend a license in this section*
7 *for licenses under the jurisdiction of the California Supreme Court.*

8 (4) *The Alcoholic Beverage Control Board may refuse to issue,*
9 *reactivate, reinstate, or renew a license, and may suspend a license,*
10 *if a licensee's name is included on a certified list.*

11 (b) For purposes of this section:

12 (1) "Certified list" means either *the* list provided by the State
13 Board of Equalization or the *list provided by the* Franchise Tax
14 Board of persons whose names appear on the lists of the 500 largest
15 tax delinquencies pursuant to Section 7063 or 19195 of the
16 Revenue and Taxation Code, *as applicable.*

17 (2) "License" includes a certificate, registration, or any other
18 authorization to engage in a profession or occupation issued by a
19 state governmental licensing entity. "License" includes a driver's
20 license issued pursuant to Chapter 1 (commencing with Section
21 12500) of Division 6 of the Vehicle Code. "License" excludes *a*
22 vehicle registration issued pursuant to Division 3 (commencing
23 with Section 4000) of the Vehicle Code.

24 (3) "Licensee" means an individual authorized by a license to
25 drive a motor vehicle or authorized by a license, certificate,
26 registration, or other authorization to engage in a profession or
27 occupation issued by a state governmental licensing entity.

28 (4) "State governmental licensing entity" means any entity listed
29 in Section 101, 1000, or 19420, the office of the Attorney General,
30 the Department of Insurance, the Department of Motor Vehicles,
31 the State Bar of California, the Department of Real Estate, and
32 any other state agency, board, or commission that issues a license,
33 certificate, or registration authorizing an individual to engage in
34 a profession or occupation, including any certificate, business or
35 occupational license, or permit or license issued by the Department
36 of Motor Vehicles or the Department of the California Highway
37 Patrol. "State governmental licensing entity" shall not include the
38 Contractors' State License Board.

39 (c) The State Board of Equalization and the Franchise Tax Board
40 shall each submit its respective certified list to every state

1 governmental licensing entity. The certified lists shall include the
2 name, social security number or taxpayer identification number,
3 and the last known address of the persons identified on the certified
4 lists.

5 (d) Notwithstanding any other law, each state governmental
6 licensing entity shall collect the social security number or the
7 federal taxpayer identification number from all applicants for the
8 purposes of matching the names of the certified lists provided by
9 the State Board of Equalization and the Franchise Tax Board to
10 applicants and licensees.

11 (e) (1) Each state governmental licensing entity shall determine
12 whether an applicant or licensee is on the most recent certified list
13 provided by the State Board of Equalization and the Franchise Tax
14 Board.

15 (2) If an applicant or licensee is on either of the certified lists,
16 the state governmental licensing entity shall immediately provide
17 a preliminary notice to the applicant or licensee of the entity's
18 intent to suspend or withhold issuance or renewal of the license.
19 The preliminary notice shall be delivered personally or by mail to
20 the applicant's or licensee's last known mailing address on file
21 with the state governmental licensing entity within 30 days of
22 receipt of the certified list. Service by mail shall be completed in
23 accordance with Section 1013 of the Code of Civil Procedure.

24 (A) The state governmental licensing entity shall issue a
25 temporary license valid for a period of 90 days to any applicant
26 whose name is on a certified list if the applicant is otherwise
27 eligible for a license.

28 (B) The 90-day time period for a temporary license shall not be
29 extended. Only one temporary license shall be issued during a
30 regular license term and the term of the temporary license shall
31 coincide with the first 90 days of the regular license term. A license
32 for the full term or the remainder of the license term may be issued
33 or renewed only upon compliance with this section.

34 (C) In the event that a license is suspended or an application for
35 a license or the renewal of a license is denied pursuant to this
36 section, any funds paid by the applicant or licensee shall not be
37 refunded by the state governmental licensing entity.

38 (f) (1) A state governmental licensing entity shall refuse to
39 issue or shall suspend a license pursuant to this section no sooner
40 than 90 days and no later than 120 days of the mailing of the

1 preliminary notice described in paragraph (2) of subdivision (e),
2 unless the state governmental licensing entity has received a release
3 pursuant to subdivision (h). The procedures in the administrative
4 adjudication provisions of the Administrative Procedure Act
5 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
6 (commencing with Section 11500) of Part 1 of Division 3 of Title
7 2 of the Government Code) shall not apply to the denial or
8 suspension of, or refusal to renew, a license or the issuance of a
9 temporary license pursuant to this section.

10 (2) Notwithstanding any other law, if a board, bureau, or
11 commission listed in Section 101, other than the Contractors' State
12 License Board, fails to take action in accordance with this section,
13 the Department of Consumer Affairs shall issue a temporary license
14 or suspend or refuse to issue, reactivate, reinstate, or renew a
15 license, as appropriate.

16 (g) Notices shall be developed by each state governmental
17 licensing entity. For an applicant or licensee on the State Board
18 of Equalization's certified list, the notice shall include the address
19 and telephone number of the State Board of Equalization, and shall
20 emphasize the necessity of obtaining a release from the State Board
21 of Equalization as a condition for the issuance, renewal, or
22 continued valid status of a license or licenses. For an applicant or
23 licensee on the Franchise Tax Board's certified list, the notice shall
24 include the address and telephone number of the Franchise Tax
25 Board, and shall emphasize the necessity of obtaining a release
26 from the Franchise Tax Board as a condition for the issuance,
27 renewal, or continued valid status of a license or licenses.

28 (1) The notice shall inform the applicant that the state
29 governmental licensing entity shall issue a temporary license, as
30 provided in subparagraph (A) of paragraph (2) of subdivision (e),
31 for 90 calendar days if the applicant is otherwise eligible and that
32 upon expiration of that time period, the license will be denied
33 unless the state governmental licensing entity has received a release
34 from the State Board of Equalization or the Franchise Tax Board,
35 whichever is applicable.

36 (2) The notice shall inform the licensee that any license
37 suspended under this section will remain suspended until the state
38 governmental licensing entity receives a release along with
39 applications and fees, if applicable, to reinstate the license.

1 (3) The notice shall also inform the applicant or licensee that if
2 an application is denied or a license is suspended pursuant to this
3 section, any moneys paid by the applicant or licensee shall not be
4 refunded by the state governmental licensing entity. The state
5 governmental licensing entity shall also develop a form that the
6 applicant or licensee shall use to request a release by the State
7 Board of Equalization ~~and~~ or the Franchise Tax Board. A copy of
8 this form shall be included with every notice sent pursuant to this
9 subdivision.

10 (h) If the applicant or licensee wishes to challenge the
11 submission of his or her name on a certified list, the applicant or
12 licensee shall make a timely written request for release to the State
13 Board of Equalization or the Franchise Tax Board, whichever is
14 applicable. The State Board of Equalization or the Franchise Tax
15 Board shall immediately send a release to the appropriate state
16 governmental licensing entity and the applicant or licensee, if any
17 of the following conditions are met:

18 (1) The applicant or licensee has complied with the tax
19 obligation, either by payment of the unpaid taxes or entry into an
20 installment payment agreement, as described in Section 6832 or
21 19008 of the Revenue and Taxation Code, to satisfy the unpaid
22 taxes.

23 (2) The applicant or licensee has submitted a request for release
24 not later than 45 days after the applicant's or licensee's receipt of
25 a preliminary notice described in paragraph (2) of subdivision (e),
26 but the State Board of Equalization or the Franchise Tax Board,
27 whichever is applicable, will be unable to complete the release
28 review and send notice of its findings to the applicant or licensee
29 and state governmental licensing entity within 45 days after the
30 State Board of Equalization's or the Franchise Tax Board's receipt
31 of the applicant's or licensee's request for release. Whenever a
32 release is granted under this paragraph, and, notwithstanding that
33 release, the applicable license or licenses have been suspended
34 erroneously, the state governmental licensing entity shall reinstate
35 the applicable licenses with retroactive effect back to the date of
36 the erroneous suspension and that suspension shall not be reflected
37 on any license record.

38 (3) The applicant or licensee is unable to pay the outstanding
39 tax obligation due to a current financial hardship. "Financial
40 hardship" means financial hardship as determined by the State

1 Board of Equalization or the Franchise Tax Board, whichever is
2 applicable, where the applicant or licensee is unable to pay any
3 part of the outstanding liability and the applicant or licensee is
4 unable to qualify for an installment payment arrangement as
5 provided for by Section 6832 or Section 19008 of the Revenue
6 and Taxation Code. In order to establish the existence of a financial
7 hardship, the applicant or licensee shall submit any information,
8 including information related to reasonable business and personal
9 expenses, requested by the State Board of Equalization or the
10 Franchise Tax Board, whichever is applicable, for purposes of
11 making that determination.

12 (i) An applicant or licensee is required to act with diligence in
13 responding to notices from the state governmental licensing entity
14 and the State Board of Equalization or the Franchise Tax Board
15 with the recognition that the temporary license will lapse or the
16 license suspension will go into effect after 90 days and that the
17 State Board of Equalization or the Franchise Tax Board must have
18 time to act within that period. An applicant's or licensee's delay
19 in acting, without good cause, which directly results in the inability
20 of the State Board of Equalization or the Franchise Tax Board,
21 whichever is applicable, to complete a review of the applicant's
22 or licensee's request for release shall not constitute the diligence
23 required under this section which would justify the issuance of a
24 release. An applicant or licensee shall have the burden of
25 establishing that he or she diligently responded to notices from the
26 state governmental licensing entity or the State Board of
27 Equalization or the Franchise Tax Board and that any delay was
28 not without good cause.

29 (j) The State Board of Equalization or the Franchise Tax Board
30 shall create release forms for use pursuant to this section. When
31 the applicant or licensee has complied with the tax obligation;
32 ~~either~~ by payment of the unpaid ~~taxes~~ *taxes*, or entry into an
33 installment payment agreement, *or establishing the existence of a*
34 *current financial hardship as defined in paragraph (3) of*
35 *subdivision (h)*, the State Board of Equalization or the Franchise
36 Tax Board, whichever is applicable, shall mail a release form to
37 the applicant or licensee and provide a release to the appropriate
38 state governmental licensing entity. Any state governmental
39 licensing entity that has received a release from the State Board
40 of Equalization and the Franchise Tax Board pursuant to this

1 subdivision shall process the release within five business days of
2 its receipt. If the State Board of Equalization or the Franchise Tax
3 Board determines subsequent to the issuance of a release that the
4 licensee has not complied with their installment payment
5 agreement, the State Board of Equalization or the Franchise Tax
6 Board, whichever is applicable, shall notify the state governmental
7 licensing entity and the licensee in a format prescribed by the State
8 Board of Equalization or the Franchise Tax Board, whichever is
9 applicable, that the licensee is not in compliance and the release
10 shall be rescinded. The State Board of Equalization and the
11 Franchise Tax Board may, when it is economically feasible for
12 the state governmental licensing entity to develop an automated
13 process for complying with this subdivision, notify the state
14 governmental licensing entity in a manner prescribed by the State
15 Board of Equalization or the Franchise Tax Board, whichever is
16 applicable, that the licensee has not complied with the installment
17 payment agreement. Upon receipt of this notice, the state
18 governmental licensing entity shall immediately notify the licensee
19 on a form prescribed by the state governmental licensing entity
20 that the licensee's license will be suspended on a specific date,
21 and this date shall be no longer than 30 days from the date the
22 form is mailed. The licensee shall be further notified that the license
23 will remain suspended until a new release is issued in accordance
24 with this subdivision.

25 (k) The State Board of Equalization and the Franchise Tax Board
26 may enter into interagency agreements with the state governmental
27 licensing entities necessary to implement this section.

28 (l) Notwithstanding any other law, a state governmental
29 licensing entity, with the approval of the appropriate department
30 director or governing body, may impose a fee on a licensee whose
31 license has been suspended pursuant to this section. The fee shall
32 not exceed the amount necessary for the state governmental
33 licensing entity to cover its costs in carrying out the provisions of
34 this section. Fees imposed pursuant to this section shall be
35 deposited in the fund in which other fees imposed by the state
36 governmental licensing entity are deposited and shall be available
37 to that entity upon appropriation in the annual Budget Act.

38 (m) The process described in subdivision (h) shall constitute
39 the sole administrative remedy for contesting the issuance of a

1 temporary license or the denial or suspension of a license under
2 this section.

3 (n) Any state governmental licensing entity receiving an inquiry
4 as to the licensed status of an applicant or licensee who has had a
5 license denied or suspended under this section or who has been
6 granted a temporary license under this section shall respond that
7 the license was denied or suspended or the temporary license was
8 issued only because the licensee appeared on a list of the 500
9 largest tax delinquencies pursuant to Section 7063 or 19195 of the
10 Revenue and Taxation Code. Information collected pursuant to
11 this section by any state agency, board, or department shall be
12 subject to the Information Practices Act of 1977 (Chapter 1
13 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
14 3 of the Civil Code). Any state governmental licensing entity that
15 discloses on its Internet Web site or other publication that the
16 licensee has had a license denied or suspended under this section
17 or has been granted a temporary license under this section shall
18 prominently disclose, in bold and adjacent to the information
19 regarding the status of the license, that the only reason the license
20 was denied, suspended, or temporarily issued is because the
21 licensee failed to pay taxes.

22 (o) Any rules and regulations issued pursuant to this section by
23 any state agency, board, or department may be adopted as
24 emergency regulations in accordance with the rulemaking
25 provisions of the Administrative Procedure Act (Chapter 3.5
26 (commencing with Section 11340) of Part 1 of Division 3 of Title
27 2 of the Government Code). The adoption of these regulations
28 shall be deemed an emergency and necessary for the immediate
29 preservation of the public peace, health, and safety, or general
30 welfare. The regulations shall become effective immediately upon
31 filing with the Secretary of State.

32 (p) The State Board of Equalization, the Franchise Tax Board,
33 and state governmental licensing entities, as appropriate, shall
34 adopt regulations as necessary to implement this section.

35 (q) (1) Neither the state governmental licensing entity, nor any
36 officer, employee, or agent, or former officer, employee, or agent
37 of a state governmental licensing entity, may disclose or use any
38 information obtained from the State Board of Equalization or the
39 Franchise Tax Board, pursuant to this section, except to inform
40 the public of the denial, refusal to renew, or suspension of a license

1 or the issuance of a temporary license pursuant to this section. The
2 release or other use of information received by a state governmental
3 licensing entity pursuant to this section, except as authorized by
4 this section, is punishable as a misdemeanor. This subdivision may
5 not be interpreted to prevent the State Bar of California from filing
6 a request with the Supreme Court of California to suspend a
7 member of the bar pursuant to this section.

8 (2) A suspension of, or refusal to renew, a license or issuance
9 of a temporary license pursuant to this section does not constitute
10 denial or discipline of a licensee for purposes of any reporting
11 requirements to the National Practitioner Data Bank and shall not
12 be reported to the National Practitioner Data Bank or the Healthcare
13 Integrity and Protection Data Bank.

14 (3) Upon release from the certified list, the suspension or
15 revocation of the applicant's or licensee's license shall be purged
16 from the state governmental licensing entity's Internet Web site
17 or other publication within three business days. *This paragraph*
18 *shall not apply to the State Bar of California.*

19 (r) If any provision of this section or the application thereof to
20 any person or circumstance is held invalid, that invalidity shall not
21 affect other provisions or applications of this section that can be
22 given effect without the invalid provision or application, and to
23 this end the provisions of this section are severable.

24 (s) All rights to review afforded by this section to an applicant
25 shall also be afforded to a licensee.

26 (t) Unless otherwise provided in this section, the policies,
27 practices, and procedures of a state governmental licensing entity
28 with respect to license suspensions under this section shall be the
29 same as those applicable with respect to suspensions pursuant to
30 Section 17520 of the Family Code.

31 (u) No provision of this section shall be interpreted to allow a
32 court to review and prevent the collection of taxes prior to the
33 payment of those taxes in violation of the California Constitution.

34 (v) This section shall apply to any licensee whose name appears
35 on a list of the 500 largest tax delinquencies pursuant to Section
36 7063 or 19195 of the Revenue and Taxation Code on or ~~after~~ *after* July
37 *after July 1, 2012.*

38 SEC. 4. Section 12419.13 is added to the Government Code,
39 to read:

12419.13. (a) (1) The Controller shall, upon execution of a reciprocal agreement between the State Board of Equalization or the Franchise Tax Board, and any other state imposing a sales and use tax, an income tax, or tax measured by income, offset any delinquent tax debt due to that other state from a person or entity, against any refund under the Sales and Use Tax Law, the Personal Income Tax Law, or the Corporation Tax Law owed to that person or entity.

(2) Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller.

(3) Payment of the offset amount shall occur only after other offset requests for debts owed by a person or entity to this state or the federal government have been satisfied in accordance with the priority established under Section 12419.3.

(b) The reciprocal agreement identified in subdivision (a) shall prescribe the manner in which the administrative costs of the Controller, the State Board of Equalization, and the Franchise Tax Board shall be reimbursed.

SEC. 5. Section 10295.4 is added to the Public Contract Code, to read:

10295.4. (a) Notwithstanding any other law, a state agency shall not enter into any contract for the acquisition of goods or services with a contractor whose name appears on either list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. Any contract entered into in violation of this subdivision is void and unenforceable.

(b) This section shall apply to any contract executed on or after July 1, 2012.

SEC. 6. Section 6835 is added to the Revenue and Taxation Code, to read:

6835. (a) The board may enter into an agreement with the Internal Revenue Service or any other state imposing a sales and use tax, or a similar tax, for the purpose of collecting delinquent tax debts with respect to amounts assessed or imposed under this part, provided the agreements do not cause the net displacement of civil service employees. The agreement may provide, at the discretion of the board, the rate of payment and the manner in which compensation for services shall be paid.

(b) At the discretion of the board, the Internal Revenue Service or the other state collecting the tax debt pursuant to subdivision

1 (a) may, as part of the collection process, refer the tax debt for
2 litigation by its legal representatives in the name of the board.

3 (c) For purposes of this section, “displacement” includes layoff,
4 demotion, involuntary transfer to a new class, involuntary transfer
5 to a new location requiring a change of residence, and time base
6 reductions. “Displacement” does not include changes in shifts or
7 days off, nor does it include reassignment to any other position
8 within the same class and general location.

9 SEC. 7. Article 9 (commencing with Section 6850) is added
10 to Chapter 6 of Part 1 of Division 2 of the Revenue and Taxation
11 Code, to read:

12
13 Article 9. Collection of Tax Debts Due to the Internal Revenue
14 Services or Other States
15

16 6850. (a) The board may enter into an agreement to collect
17 any delinquent tax debt due to the Internal Revenue Service or any
18 other state imposing a sales and use tax, or similar tax, if, pursuant
19 to Section 6835, the Internal Revenue Service or such a state has
20 entered into an agreement to collect delinquent tax debts due to
21 the board.

22 (b) Upon written notice to the debtor from the board, any amount
23 referred to the board under subdivision (a) shall be treated as final
24 and due and payable to the State of California, and shall be
25 collected from the debtor by the board in any manner authorized
26 under the law for collection of a delinquent sales and use tax
27 liability, including, but not limited to, the recording of a notice of
28 state tax lien under Article 2 (commencing with Section 7170) of
29 Chapter 14 of Division 7 of Title 1 of the Government Code, and
30 the issuance of an order and levy under Article 4 (commencing
31 with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part
32 2 of the Code of Civil Procedure in the manner provided for
33 earnings withholding orders for taxes.

34 (c) This part shall apply to amounts referred under this section
35 in the same manner and with the same force and effect and to the
36 full extent as if the language of those laws had been incorporated
37 in full into this section, except to the extent that any provision is
38 either inconsistent with this section or is not relevant to this section.

(d) The activities required to implement and administer this section shall not interfere with the primary mission of the board to administer this part.

(e) In no event shall a collection under this section be construed as a payment of sales and use taxes imposed under this part, or in accordance with Part 1.5 (commencing with Section 7200), or Part 1.6 (commencing with Section 7251), of Division 2.

SEC. 8. Section 7057 is added to the Revenue and Taxation Code, to read:

7057. (a) The board may disclose to state governmental licensing entities identifying information of persons appearing on the list of the 500 largest tax delinquencies pursuant to Section 7063 for purposes of administering Section 494.5 of the Business and Professions Code. *“Identifying information” means the name, social security number or taxpayer identification number, and the last known address of the persons appearing on the list of the 500 largest tax delinquencies.*

(b) Neither the state governmental licensing entity, nor any officer, employee, or agent, or former officer, employee, or agent of a state governmental licensing entity, may disclose or use any information obtained from the board pursuant to this section, except to administer Section 494.5 of the Business and Professions Code or to inform the public of the denial, refusal to renew, or suspension of a license or the issuance of a temporary license pursuant to Section 494.5 of the Business and Professions Code.

(c) For purposes of this section, state governmental licensing entity means a state governmental licensing entity as defined in Section 494.5 of the Business and Professions Code.

SEC. 9. Section 7057.5 is added to the Revenue and Taxation Code, to read:

7057.5. (a) The board may disclose to state agencies identifying information of persons appearing on the list of the 500 largest tax delinquencies pursuant to Section 7063 for purposes of administering Section 10295.4 of the Public Contract Code. *“Identifying information” means the name, social security number or taxpayer identification number, and the last known address of the persons appearing on the list of the 500 largest tax delinquencies.*

(b) A state agency, and any officer, employee, or agent, or former officer, employee, or agent of a state agency, shall not

1 disclose or use any information obtained from the board, pursuant
2 to this section, except to administer Section 10295.4 of the Public
3 Contract Code.

4 SEC. 10. Section 7063 of the Revenue and Taxation Code is
5 amended to read:

6 7063. (a) Notwithstanding any other provision of law, the
7 board shall make available as a matter of public record each quarter
8 a list of the 500 largest tax delinquencies in excess of one hundred
9 thousand dollars (\$100,000) under this part. For purposes of
10 compiling the list, a tax delinquency means an amount owed to
11 the board which is all of the following:

12 (1) Based on a determination made under Article 2 (commencing
13 with Section 6481) or Article 3 (commencing with Section 6511)
14 of Chapter 5 deemed final pursuant to Article 5 (commencing with
15 Section 6561) of Chapter 5, or that is “due and payable” under
16 Article 4 (commencing with Section 6536) of Chapter 5, or
17 self-assessed by the taxpayer.

18 (2) Recorded as a notice of state tax lien pursuant to Chapter
19 14 (commencing with Section 7150) of Division 7 of Title 1 of
20 the Government Code, in any county recorder’s office in this state.

21 (3) For an amount of tax delinquent for more than 90 days.

22 (b) For purposes of the list, a tax delinquency does not include
23 any of the following and may not be included on the list:

24 (1) A delinquency that is under litigation in a court of law.

25 (2) A delinquency for which payment arrangements have been
26 agreed to by both the taxpayer and the board and the taxpayer is
27 in compliance with the arrangement.

28 (3) A delinquency for which the taxpayer has filed for
29 bankruptcy protection pursuant to Title 11 of the United States
30 Code.

31 (c) Each quarterly list shall, with respect to each delinquency,
32 include all the following:

33 (1) The name of the person or persons liable for payment of the
34 tax and that person’s or persons’ last known address.

35 (2) The amount of tax delinquency as shown on the notice or
36 notices of state tax lien and any applicable interest or penalties,
37 less any amounts paid.

38 (3) The earliest date that a notice of state tax lien was filed.

39 (4) The type of tax that is delinquent.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the board shall provide a preliminary written notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person or persons do not remit the amount due or make arrangements with the board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The quarterly list described in subdivision (a) shall include the following:

(1) The telephone number and address of the board office to contact if a person believes placement of his or her name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than 5 business days from the occurrence of any of the following, the board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the board has verified that a bankruptcy proceeding has been completed and there are no assets available with which to pay the delinquent amount or amounts.

(4) Tax delinquencies that the board has determined to be uncollectible.

(g) A person whose delinquency appears on the quarterly list, and who satisfies that delinquency in whole or in part, may request the board to include in its quarterly list any payments that person made to satisfy the delinquency. Upon receipt of that request, the board shall include those payments on the list as promptly as feasible.

(h) Notwithstanding subdivision (a), a person whose delinquency appeared on the quarterly list and whose name has been removed pursuant to paragraph (1) of subdivision (f) shall comply with the terms of the arranged resolution. If a person fails to do so, the board shall add that person's name to the list of delinquencies

1 without providing the prior written notice required by subdivision
2 (d).

3 SEC. 11. Section 19195 of the Revenue and Taxation Code is
4 amended to read:

5 19195. (a) Notwithstanding any other provision of law,
6 including Section 6254.21 of the Government Code, the Franchise
7 Tax Board shall make available as a matter of public record at
8 least twice each calendar year a list of the 500 largest tax
9 delinquencies in excess of one hundred thousand dollars (\$100,000)
10 under Part 10 and Part 11 of this division. For purposes of
11 compiling the list, a tax delinquency means the total amount owed
12 by a taxpayer to the State of California for which a notice of state
13 tax lien has been recorded in any county recorder's office in this
14 state, pursuant to Chapter 14 (commencing with Section 7150) of
15 Division 7 of Title 1 of the Government Code.

16 (b) For purposes of the list, a tax delinquency does not include
17 any of the following and may not be included on the list:

18 (1) A delinquency for which payment arrangements have been
19 agreed to by both the taxpayer and the Franchise Tax Board and
20 the taxpayer is in compliance with the arrangement.

21 (2) A delinquency for which the taxpayer has filed for
22 bankruptcy protection pursuant to Title 11 of the United States
23 Code.

24 (3) A delinquency for which the person or persons liable for the
25 tax have contacted the Franchise Tax Board and for which
26 resolution of the tax delinquency has been accepted by the
27 Franchise Tax Board.

28 (c) Each list shall, with respect to each delinquency, include all
29 the following:

30 (1) The name of the person or persons liable for payment of the
31 tax and that person's or persons' address.

32 (2) The amount of tax delinquency as shown on the notice or
33 notices of state tax lien and any applicable interest or penalties,
34 less any amounts paid.

35 (3) The earliest date that a notice of state tax lien was filed.

36 (4) The type of tax that is delinquent.

37 (5) The type, status, and license number of any occupational or
38 professional license held by the person or persons liable for
39 payment of the tax.

(6) The names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. The Franchise Tax Board shall refer to the limited liability company's or the corporation's Statement of Information filed with the Secretary of State or to the limited liability company's or the corporation's tax return filed pursuant to this part to determine the principal officers of the limited liability company or corporation. Principal officers appearing on a list solely pursuant to this paragraph shall not be subject to Section 494.5 of the Business and Professions Code, or Section 10295.4 of the Public Contract Code.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the Franchise Tax Board shall provide a preliminary written notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person or persons do not remit the amount due or make arrangements with the Franchise Tax Board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The list described in subdivision (a) shall include the following:

(1) The telephone number and address of the Franchise Tax Board office to contact if a person believes placement of his or her name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than five business days from the occurrence of any of the following, the Franchise Tax Board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the Franchise Tax Board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the Franchise Tax Board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the Franchise Tax Board has verified that a bankruptcy proceeding has been completed and

1 there are no assets available with which to pay the delinquent
2 amount or amounts.

3 (4) Tax delinquencies that the Franchise Tax Board has
4 determined to be uncollectible.

5 (g) A person whose delinquency appears on the list, and who
6 satisfies that delinquency in whole or in part, may request the
7 Franchise Tax Board to include in its list any payments that person
8 made to satisfy the delinquency. Upon receipt of that request, the
9 Franchise Tax Board shall include those payments on the list as
10 promptly as feasible.

11 (h) Notwithstanding subdivision (a), a person whose delinquency
12 appeared on the list and whose name has been removed pursuant
13 to paragraph (1) of subdivision (f) shall comply with the terms of
14 the arranged resolution. If the person fails to do so, the Franchise
15 Tax Board may add that person's name to the list of delinquencies
16 without providing the prior written notice otherwise required by
17 subdivision (d).

18 SEC. 12. Article 7 (commencing with Section 19291) is added
19 to Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation
20 Code, to read:

21
22 Article 7. Collection of Tax Debts Due to the Internal Revenue
23 Service or Other States
24

25 19291. (a) The Franchise Tax Board may enter into an
26 agreement to collect any delinquent tax debt due to the Internal
27 Revenue Service or any other state imposing an income tax or tax
28 measured by income if, pursuant to Section 19377.5, the Internal
29 Revenue Service or that state has entered into an agreement to
30 collect delinquent tax debts due the Franchise Tax Board.

31 (b) Upon written notice to the debtor from the Franchise Tax
32 Board, any amount referred to the Franchise Tax Board under
33 subdivision (a) shall be treated as final and due and payable to the
34 State of California, and shall be collected from the debtor by the
35 Franchise Tax Board in any manner authorized under the law for
36 collection of a delinquent income tax liability, including, but not
37 limited to, the recording of a notice of state tax lien under Article
38 2 (commencing with Section 7170) of Chapter 14 of Division 7
39 of Title 1 of the Government Code, and the issuance of an order
40 and levy under Article 4 (commencing with Section 706.070) of

Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(c) Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts referred under this section in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this section, except to the extent that any provision is either inconsistent with this section or is not relevant to this section.

(d) The activities required to implement and administer this section shall not interfere with the primary mission of the Franchise Tax Board to administer Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001).

(e) In no event shall a collection under this section be construed as a payment of income taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

SEC. 13. Section 19377.5 is added to the Revenue and Taxation Code, to read:

19377.5. (a) The Franchise Tax Board may enter into an agreement with the Internal Revenue Service or any other state imposing an income tax or tax measured by income for the purpose of collecting delinquent tax debts with respect to amounts assessed or imposed under Part 10 (commencing with Section 17001), this part, or Part 11 (commencing with Section 23001), provided the agreements do not cause the net displacement of civil service employees. The agreement may provide, at the discretion of the Franchise Tax Board, the rate of payment and the manner in which compensation for services shall be paid.

(b) At the discretion of the Franchise Tax Board, the Internal Revenue Service or the other state collecting the tax debt pursuant to subdivision (a) may, as part of the collection process, refer the tax debt for litigation by its legal representatives in the name of the Franchise Tax Board.

(c) For purposes of this section, “displacement” includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. “Displacement” does not include changes in shifts or

1 days off, nor does it include reassignment to any other position
2 within the same class and general location.

3 SEC. 14. Section 19533 of the Revenue and Taxation Code is
4 amended to read:

5 19533. In the event the debtor has more than one debt being
6 collected by the Franchise Tax Board and the amount collected by
7 the Franchise Tax Board is insufficient to satisfy the total amount
8 owing, the amount collected shall be applied in the following
9 priority:

10 (a) Payment of any delinquencies transferred for collection
11 under Article 5 (commencing with Section 19270) of Chapter 5.

12 (b) Payment of any taxes, additions to tax, penalties, interest,
13 fees, or other amounts due and payable under Part 7.5 (commencing
14 with Section 13201), Part 10 (commencing with Section 17001),
15 Part 11 (commencing with Section 23001), or this part, and
16 amounts authorized to be collected under Section 19722.

17 (c) Payment of delinquent wages collected pursuant to the Labor
18 Code.

19 (d) Payment of delinquencies collected under Section 10878.

20 (e) Payment of any amounts due that are referred for collection
21 under Article 5.5 (commencing with Section 19280) of Chapter
22 5.

23 (f) Payment of any amounts that are referred for collection
24 pursuant to Section 62.9 of the Labor Code.

25 (g) Payment of delinquent penalties collected for the Department
26 of Industrial Relations pursuant to the Labor Code.

27 (h) Payment of delinquent fees collected for the Department of
28 Industrial Relations pursuant to the Labor Code.

29 (i) Payment of delinquencies referred by the Student Aid
30 Commission.

31 (j) Payment of any delinquencies referred for collection under
32 Article 7 (commencing with Section 19291) of Chapter 5.

33 (k) Notwithstanding the payment priority established by this
34 section, voluntary payments designated by the taxpayer as payment
35 for a personal income tax liability or as a payment on amounts
36 authorized to be collected under Section 19722, shall not be applied
37 pursuant to this priority, but shall instead be applied as designated.

38 SEC. 15. Section 19571 is added to the Revenue and Taxation
39 Code, to read:

1 19571. (a) The Franchise Tax Board may disclose to state
2 governmental licensing entities identifying information of persons
3 appearing on the list of 500 largest tax delinquencies pursuant to
4 Section 19195 for purposes of administering Section 494.5 of the
5 Business and Professions Code. *“Identifying information” means*
6 *the name, social security number or taxpayer identification number,*
7 *and the last known address of the persons appearing on the list of*
8 *the 500 largest tax delinquencies.*

9 (b) Neither the state governmental licensing entity, nor any
10 officer, employee, or agent, or former officer, employee, or agent
11 of a state governmental licensing entity, may disclose or use any
12 information obtained from the Franchise Tax Board pursuant to
13 this section, except to administer Section 494.5 of the Business
14 and Professions Code or to inform the public of the denial, refusal
15 to renew, or suspension of a license or the issuance of a temporary
16 license pursuant to Section 494.5 of the Business and Professions
17 Code.

18 (c) For purposes of this section, state governmental licensing
19 entity means a state governmental licensing entity as defined in
20 Section 494.5 of the Business and Professions Code.

21 SEC. 16. Section 19572 is added to the Revenue and Taxation
22 Code, to read:

23 19572. (a) The Franchise Tax Board may disclose to state
24 agencies identifying information of persons appearing on the list
25 of the 500 largest tax delinquencies pursuant to Section 19195 for
26 purposes of administering Section 10295.4 of the Public Contract
27 Code. *“Identifying information” means the name, social security*
28 *number or taxpayer identification number, and the last known*
29 *address of the persons appearing on the list of the 500 largest tax*
30 *delinquencies.*

31 (b) A state agency, and any officer, employee, or agent, or
32 former officer, employee, or agent of a state agency, shall not
33 disclose or use any information obtained from the Franchise Tax
34 Board, pursuant to this section, except to administer Section
35 10295.4 of Public Contract Code.

36 SEC. 17. Section 34623.1 is added to the Vehicle Code, to
37 read:

38 34623.1. The motor carrier permit of a licensee may be
39 suspended pursuant to Section 494.5 of the Business and
40 Professions Code if a licensee’s name is included on a certified

1 list of tax delinquencies provided by the State Board of
2 Equalization or the Franchise Tax Board pursuant to Section 7063
3 or Section 19195, respectively of the Revenue and Taxation Code.

4 SEC. 18. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 a local agency or school district has the authority to levy service
7 charges, fees, or assessments sufficient to pay for the program or
8 level of service mandated by this act or because costs that may be
9 incurred by a local agency or school district will be incurred
10 because this act creates a new crime or infraction, eliminates a
11 crime or infraction, or changes the penalty for a crime or infraction,
12 within the meaning of Section 17556 of the Government Code, or
13 changes the definition of a crime within the meaning of Section 6
14 of Article XIII B of the California Constitution.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 14, 2011
BILL ANALYSIS**

AUTHOR:	Huff	BILL NUMBER:	SB 161
SPONSOR:	Orange County Office of Education	BILL STATUS:	Enrollment
SUBJECT:	Schools: Emergency Medical Assistance: administration of epilepsy medication	DATE LAST AMENDED:	8/26/11

SUMMARY:

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia. This bill would add and repeal a section of the Education Code relating to pupil health.

ANALYSIS:

This bill would authorize a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with performance standards developed by specified entities. The bill would authorize the State Department of Public Health to approve the performance standards for distribution and make the standards available upon request.

The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed Diastat by the pupil's health care provider to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer Diastat, as defined, in the event that the pupil suffers a seizure when a nurse is not available.

The bill would require a school that decides to train school employees to distribute an electronic notice, as specified, to all staff regarding the request. It would require that the training be conducted by one or more of the following: a physician, a credentialed school nurse, a registered nurse or a credentialed public health nurse.

The bill would repeal these provisions on January 1, 2017.

Amended analysis as of 3/09/11:

This bill amendment would change the authorization for a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a

credentialed school nurse or other licensed nurse onsite at the school. The emergency medical assistance to pupils with epilepsy suffering from seizures would be provided in accordance with **performance guidelines** instead of **standards**. It would provide for the guidelines to be developed in cooperation with the State Department of Education, the California School Nurses Organization, the California Medical Association, and the American Academy of Pediatrics. The provision allowing the State Department of Public Health to approve performance standards would be deleted. Also, the physician assistant would be added to the list of persons who could conduct the training.

This amendment would also require the health care practitioner to include, in a written statement, the detailed information about seizure symptoms, including frequency, type, or length of seizures that identify when the administration of Diastat becomes necessary.

During the 2009-2010 Legislative Session, the Board followed SB1051 that had similar provisions as SB161. The Board took an Oppose position and the bill was held in committee.

Amended analysis as of 4/25/11:

This bill amendment would permit the State Department of Education to include, on its Internet Web site, a clearinghouse of best practices in training nonmedical personnel in administering an emergency antiseizure medication. Before a training program could be placed on the clearinghouse of best practices, it would have to be approved by the Professional Advisory Board of the Epilepsy Foundations of Greater Los Angeles, San Diego County, and Northern California, in consultation with the Department.

This amendment also replaces the word "Diastat" with "emergency antiseizure medication" throughout the bill. It defines "emergency antiseizure medication" as diazepam rectal gel and emergency medications approved by the federal Food and Drug Administration for patients with epilepsy for the management of seizures by persons without the medical credentials.

This amendment would also permit Licensed Vocational Nurses to be involved in the health care needs of children in schools.

Amended analysis as of 5/31/11:

This bill amendment authorizes the State Department of Public Health in consultation with the State Department of Education to develop the guidelines for the training and supervision of school employees in providing emergency medical assistance to pupils with epilepsy suffering from seizures. It provides that the electronic notice sent to staff requesting volunteers shall be the only means by which a school solicits volunteers.

Amended analysis as of 7/13/11:

This bill amendment, among other things, authorizes the State Department of Education in consultation with the State Department of Public Health to develop the guidelines for training. The bill would require the State Department of Education to post these guidelines on its Internet Web site by July 1, 2012.

Amended analysis as of 8/26/11:

This bill would allow a school district, county office of education, or charter school to elect to participate in a program to provide nonmedical school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school or charter school, emergency medical assistance to pupils with epilepsy suffering from seizures. The training would be in accordance with guidelines for training and supervision developed by the State Department of Education in consultation with the State Department of Public Health.

BOARD POSITION: Oppose (4/13/11)**LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Oppose (3/10/11)
(8/10/11)****SUPPORT:**

Association of Regional Center Agencies
The California Association of Joint Powers Authorities (If Amended)
California Association of School Business Officials
California Association of Suburban School Districts
California School Boards Association
Democrats for Education Reform
Disability Rights California
Epilepsy Foundation, California
Health Officers Association of California
Humboldt County Office of Education
Kern County Superintendent of Schools
Los Angeles County Office of Education
Los Angeles Unified School district
Orange County Department of Education
Riverside County School Superintendents' Association
Riverside Unified School District
Saddleback Valley Unified School District
San Bernardino County District Advocates for Better Schools
Small School Districts' Association
35 individuals

OPPOSE:

American Nurses Association-California
California Labor Federation
The California Federation of Teachers
California Association for Nurse Practitioners
California Nurses Association
California School Employees Association
California School Nurses Organization
California School Employees Association
California Teachers Association

Laborers International Union of North America, Local 777

Service Employees International Union-Nurses

Alliance of California

United Nurses Associations of CA-Union of Health Care Professionals

United Teachers Los Angeles

AMENDED IN ASSEMBLY AUGUST 26, 2011

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 9, 2011

SENATE BILL

No. 161

Introduced by Senator Huff
(Coauthor: Senator Rubio)
(Coauthor: Assembly Member Halderman)

February 2, 2011

An act to add and repeal Section 49414.7 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 161, as amended, Huff. Schools: emergency medical assistance: administration of epilepsy medication.

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia.

This bill would authorize a school district, *county office of education, or charter school* to participate in a program to provide nonmedical school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse

onsite at the school *or charter school*, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with guidelines developed by the State Department of Education in consultation with the State Department of Public Health. The bill would require the State Department of Education to post these guidelines on its Internet Web site by July 1, 2012. The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed an emergency antiseizure medication by the pupil's health care provider, to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer the emergency antiseizure medication, as defined, in the event that the pupil suffers a seizure when a nurse is not available. The bill would require a school district, *county office of education*, *or charter school* that elects to train school employees to ensure that the school *or charter school* distributes an electronic notice, as specified, to all staff regarding the request. The bill would authorize the State Department of Education to include, on its Internet Web site, a clearinghouse of best practices in training nonmedical personnel in administering an emergency antiseizure medication pursuant to these provisions. The bill would make various legislative findings and declarations, and state the intent of the Legislature in enacting this measure. The bill would repeal these provisions on January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) All individuals with exceptional needs have a right to
- 4 participate in a free appropriate public education, and that special
- 5 instruction and services for these individuals are needed in order
- 6 to ensure they have the right to an appropriate educational
- 7 opportunity to meet their unique needs in compliance with the
- 8 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.
- 9 1400 et seq.).
- 10 (2) The safety and welfare of a pupil with epilepsy is
- 11 compromised without immediate access to an emergency
- 12 antiseizure medication and, therefore, clarification is needed to
- 13 ensure that nonmedical school staff, who have volunteered and

1 have been trained in its correct administration, may administer an
2 emergency antiseizure medication.

3 (3) As used in this section, “immediate access” means the time
4 period that the pupil’s health care provider states that an antiseizure
5 medication must be administered, provided that it is within the
6 timeframe that a licensed medical person or paramedic can
7 reasonably be expected to respond and be available.

8 (b) It is the intent of the Legislature that individuals with
9 exceptional needs and children with disabilities under the federal
10 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
11 et seq.), the federal Individuals with Disabilities Education Act
12 (20 U.S.C. Sec. 1400 et seq.), and Section 504 of the federal
13 Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) shall have a right
14 to an appropriate educational opportunity to meet their unique
15 needs, and that children suffering from seizures due to epilepsy
16 have the right to appropriate programs and services that are
17 designed to meet their unique needs. In order to meet that goal, it
18 is the intent of the Legislature that licensed health care
19 professionals train and supervise employees of school districts ~~and~~
20 ~~county offices of education~~, *county offices of education*, and
21 *charter schools* to administer an emergency antiseizure medication
22 to children with epilepsy in the public schools. The American
23 Academy of Pediatrics and the Epilepsy Foundation of America
24 support training of school employees to administer an emergency
25 antiseizure medication and believe that an emergency antiseizure
26 medication may be safely and effectively administered by trained
27 school employees. The Legislature further finds and declares that,
28 in the absence of a credentialed school nurse or other licensed
29 nurse onsite at the school, it is in the best interest of the health and
30 safety of children to allow trained school employees to administer
31 an emergency antiseizure medication to pupils in public schools.

32 SEC. 2. Section 49414.7 is added to the Education Code, to
33 read:

34 49414.7. (a) It is the intent of the Legislature that, whenever
35 possible, an emergency antiseizure medication should be
36 administered by a school nurse or licensed vocational nurse who
37 has been trained in its administration.

38 (b) Notwithstanding Sections 2052 and 2732 of the Business
39 and Professions Code, in the absence of a credentialed school nurse
40 or other licensed nurse onsite at the school, ~~a school district or~~

1 *charter school, a school district, county office of education, or*
2 *charter school* may elect to participate in a program, pursuant to
3 this section, to allow nonmedical employees to volunteer to provide
4 medical assistance to pupils with epilepsy suffering from seizures,
5 upon request by a parent or guardian pursuant to subdivision (c).
6 If the school district, *county office of education, or charter school*
7 elects to participate in a program pursuant to this section, the school
8 district, *county office of education, or charter school* shall provide
9 school employees; who volunteer pursuant to this section; with
10 voluntary emergency medical training, that is consistent with the
11 training guidelines established pursuant to subdivision (m), to
12 provide emergency medical assistance to pupils with epilepsy
13 suffering from seizures. A school employee with voluntary
14 emergency medical training shall provide this emergency medical
15 assistance using ~~a training plan~~ *guidelines* approved on the
16 department's Internet Web site pursuant to subdivision (m), and
17 the performance instructions set forth by the licensed health care
18 provider of the pupil. A school employee who does not volunteer
19 or who has not been trained pursuant to subdivision (m) shall not
20 be required to provide emergency medical assistance pursuant to
21 this section.

22 (c) If a pupil with epilepsy has been prescribed an emergency
23 antiseizure medication by his or her health care provider, the
24 pupil's parent or guardian may request the pupil's school to have
25 one or more of its employees receive training pursuant to this
26 section in the administration of an emergency antiseizure
27 medication in the event that the pupil suffers a seizure when a
28 nurse is not available.

29 (d) Pursuant to Section 504 of the federal Rehabilitation Act of
30 1973, as amended, (29 U.S.C. Sec. 794), and the federal Individuals
31 with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), upon
32 receipt of the parent's or guardian's request pursuant to subdivision
33 (c), the school *or charter school* shall notify the parent or guardian
34 that his or her child may qualify for services or accommodations
35 under the Section 504 plan or an individualized education program,
36 assist the parent or guardian with the exploration of that option,
37 and encourage the parent or guardian to adopt that option if it is
38 determined that the child is eligible for a Section 504 plan or an
39 individualized education program.

(e) The school *or charter school* may ask the parent or guardian to sign a notice verifying that the parent or guardian was given information about Section 504 of the federal Rehabilitation Act of 1973 and the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and that the parent or guardian understands that it is his or her right to request a Section 504 plan or an individualized education program at any time.

(f) If the parent or guardian does not choose to have the pupil assessed for a Section 504 plan or an individualized education program, the school *or charter school* may create an individualized health plan, seizure action plan, or other appropriate health plan designed to acknowledge and prepare for the child's health care needs in school. The plan may include the involvement of trained volunteer school employees or a licensed vocational nurse.

(g) In training employees pursuant to this section, the school district, *county office of education, or charter school* shall ensure the following:

(1) A volunteer receives training from a licensed health care professional regarding the administration of an emergency antiseizure medication. A staff member who has completed training shall, if he or she has not administered an emergency antiseizure medication within the prior two years and there is a pupil enrolled in the school who may need the administration of an antiseizure medication, attend a new training program to retain the ability to administer an emergency antiseizure medication.

(2) Any agreement by an employee to administer an emergency antiseizure medication is voluntary, and an employee of the school *or charter school* ~~or school district~~ *an employee of the school district or county office of education, or the charter school administrator;* shall not directly or indirectly use or attempt to use his or her authority or influence for the purpose of intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce any staff member who does not choose to volunteer, including, but not limited to, direct contact with the employee.

(3) Any employee who volunteers pursuant to this section may rescind his or her offer to administer an emergency antiseizure medication up to three days after the completion of the training. After that time, a volunteer may rescind his or her offer to administer an emergency antiseizure medication with a two-week

1 notice, or until a new individual health plan or Section 504 plan
2 has been developed for an affected pupil, whichever is less.

3 (4) The school *or charter school* shall distribute an electronic
4 notice no more than twice per school year per child to all staff that
5 states the following information in bold print:

6 (A) A description of the volunteer request, stating that the
7 request is for volunteers to administer an emergency antiseizure
8 medication to a pupil experiencing a severe epileptic seizure, in
9 the absence of a school nurse, and that this emergency antiseizure
10 medication is an FDA-approved, predosed, rectally administered
11 gel that reduces the severity of epileptic seizures.

12 (B) A description of the training that the volunteer will receive
13 pursuant to paragraph (1).

14 (C) A description of the voluntary nature of the volunteer
15 program, which includes the information described in paragraph
16 (2).

17 (D) The volunteer rescission timelines described in paragraph
18 (3).

19 (5) The electronic notice described in paragraph (4) shall be the
20 only means by which a school *or charter school* solicits volunteers.

21 (h) An employee who volunteers pursuant to this section shall
22 not be required to administer an emergency antiseizure medication
23 until completion of the training program adopted by the school
24 district, *county office of education, or charter school* and
25 documentation of completion is recorded in his or her personnel
26 file.

27 (i) If a school district, *county office of education, or charter*
28 *school* elects to participate pursuant to this section, the school
29 district, *county office of education, or charter school* shall ensure
30 that each employee who volunteers under this section will be
31 provided defense and indemnification by the school district, *county*
32 *office of education, or charter school* for any and all civil liability,
33 in accordance with, but not limited to, that provided in Division
34 3.6 (commencing with Section 810) of Title 1 of the Government
35 Code. This information shall be reduced to writing, provided to
36 the volunteer, and retained in the volunteer's personnel file.

37 (j) If there are no volunteers, then the school *or charter school*
38 shall renotify the pupil's parent or guardian of the option to be
39 assessed for services and accommodations guaranteed under
40 Section 504 of the federal Rehabilitation Act of 1973 and the

1 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.
2 1400 et seq.).

3 (k) A school district, *county office of education, or charter*
4 *school* that elects to participate pursuant to this section shall have
5 in place a school district, *county office of education, or charter*
6 *school* plan that shall include, but not be limited to, all of the
7 following:

8 (1) Identification of existing licensed staff within the district or
9 region who could be trained in the administration of an emergency
10 antiseizure medication and could be available to respond to an
11 emergency need to administer an emergency antiseizure
12 medication. The school district *or charter school* shall consult with
13 the county office of education to obtain this information.

14 (2) Identification of pupils who may require the administration
15 of an emergency antiseizure medication.

16 (3) Written authorization from the parent or guardian for a
17 nonmedical school employee to administer an emergency
18 antiseizure medication.

19 (4) The requirement that the parent or guardian notify the school
20 *or charter school* if the pupil has had an emergency antiseizure
21 medication administered within the past four hours on a schoolday.

22 (5) Notification of the parent or guardian, by the school *or*
23 *charter school* administrator or, if the administrator is not available,
24 by another school staff member, that an emergency antiseizure
25 medication has been administered.

26 (6) A written statement from the pupil's health care practitioner
27 that shall include, but not be limited to, all of the following:

28 (A) The pupil's name.

29 (B) The name and purpose of the medication.

30 (C) The prescribed dosage.

31 (D) Detailed seizure symptoms, including frequency, type, or
32 length of seizures that identify when the administration of an
33 emergency antiseizure medication becomes necessary.

34 (E) The method of administration.

35 (F) The frequency with which the medication may be
36 administered.

37 (G) The circumstances under which the medication may be
38 administered.

1 (H) Any potential adverse responses by the pupil and
2 recommended mitigation actions, including when to call emergency
3 services.

4 (I) A protocol for observing the pupil after a seizure, including,
5 but not limited to, whether the pupil should rest in the school office,
6 whether the pupil may return to class, and the length of time the
7 pupil should be under direct observation.

8 (J) Following a seizure, the pupil's parent and guardian and the
9 school nurse shall be contacted by the school *or charter school*
10 administrator or, if the administrator is not available, by another
11 school staff member to continue the observation plan as established
12 in subparagraph (I).

13 (l) A school district, *county office of education, or charter school*
14 that elects to allow volunteers to administer an emergency
15 antiseizure medication shall compensate a volunteer, in accordance
16 with that employee volunteer's pay scale pursuant to Section
17 45128, when the administration of an emergency antiseizure
18 medication and subsequent monitoring of a pupil requires a
19 volunteer to work beyond his or her normally scheduled hours.

20 (m) (1) The department, in consultation with the State
21 Department of Public Health, shall develop guidelines for the
22 training and supervision of school *and charter school* employees
23 in providing emergency medical assistance to pupils with epilepsy
24 suffering from seizures and shall post this information on the
25 department's Internet Web site by July 1, 2012. The guidelines
26 may be developed in cooperation with interested organizations.
27 Upon development of the guidelines, the department shall approve
28 the guidelines for distribution and shall make those guidelines
29 available upon request.

30 (2) The department shall include, on its Internet Web site, a
31 clearinghouse for best practices in training nonmedical personnel
32 to administer an emergency antiseizure medication to pupils.

33 (3) Training established pursuant to this subdivision shall
34 include, but not be limited to, all of the following:

35 (A) Recognition and treatment of different types of seizures.

36 (B) Administration of an emergency antiseizure medication.

37 (C) Basic emergency followup procedures, including, but not
38 limited to, a requirement for the school *or charter school*
39 administrator or, if the administrator is not available, another school
40 staff member to call the emergency 911 telephone number and to

1 contact the pupil's parent or guardian. The requirement for the
2 school *or charter school* administrator or other school staff member
3 to call the emergency 911 telephone number shall not require a
4 pupil to be transported to an emergency room.

5 (D) Techniques and procedures to ensure pupil privacy.

6 (4) Any written materials used in the training shall be retained
7 by the school *or charter school*.

8 (5) Training established pursuant to this subdivision shall be
9 conducted by one or more of the following:

10 (A) A physician and surgeon.

11 (B) A physician assistant.

12 (C) A credentialed school nurse.

13 (D) A registered nurse.

14 (E) A certificated public health nurse.

15 (6) Training provided in accordance with the manufacturer's
16 instructions, the pupil's health care provider's instructions, and
17 guidelines established pursuant to this section shall be deemed
18 adequate training for purposes of this section.

19 (n) (1) The school *or charter school* administrator or, if the
20 administrator is not available, another school staff member shall
21 notify the credentialed school nurse assigned to the school district,
22 *county office of education, or charter school* if an employee at the
23 schoolsite administers an emergency antiseizure medication
24 pursuant to this section.

25 (2) If a credentialed school nurse is not assigned to the school
26 district, *county office of education, or charter school*, the school
27 *or charter school* administrator or, if the administrator is not
28 available, another school staff member shall notify the
29 superintendent of the school district, or his or her designee, *the*
30 *county superintendent of schools, or his or her designee, or the*
31 *charter school administrator, or his or her designee, as*
32 *appropriate*, if an employee at the schoolsite administers an
33 emergency antiseizure medication pursuant to this section.

34 (3) A school *or charter school* shall retain all records relating
35 to the administration of an emergency antiseizure medication while
36 a pupil is under the supervision of school staff.

37 (o) The pupil's parent or guardian shall provide all materials
38 necessary to administer an emergency antiseizure medication,
39 including the information described in paragraph (6) of subdivision

1 (k). A school *or charter school* shall not be responsible for
2 providing any of the necessary materials.

3 (p) For purposes of this section, the following definitions apply:

4 (1) An “emergency antiseizure medication” means diazepam
5 rectal gel and emergency medications approved by the federal
6 Food and Drug Administration for patients with epilepsy for the
7 management of seizures by persons without the medical credentials
8 listed in paragraph (5) of subdivision (m).

9 (2) “Emergency medical assistance” means the administration
10 of an emergency antiseizure medication to a pupil suffering from
11 an epileptic seizure.

12 (q) This section shall remain in effect only until January 1, 2017,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2017, deletes or extends that date.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 14, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 538
SPONSOR:	Board of Registered Nursing	BILL STATUS:	Senate pending concurrence with Assembly amendments
SUBJECT:	Nursing (Sunset Bill)	DATE LAST AMENDED:	8/15/11

SUMMARY:

Existing law, until January 1, 2012, creates within the Department of Consumer Affairs the Board of Registered Nursing, and provides for the board to select an executive director. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee of the Legislature.

ANALYSIS:

This bill would extend the operations of the Board of Registered Nursing until January 1, 2016, and, as of that date, the board would be subject to review by the appropriate policy committees of the Legislature.

Amended analysis of 4/25/11:

This bill amendment authorizes the Board of Registered Nursing to employ investigators and peace officers to provide investigative services necessary to meet their public protection mandate.

Additionally, this bill amendment requires the board, upon the Legislature's request, to fund an audit of the board's diversion program conducted by the Bureau of State Audits.

This bill amendment provides that a school of nursing that is not an institution of higher education or affiliated with an institution of higher education be subject to the requirements set forth in the Private Postsecondary Education Act of 2009.

This bill amendment requires all approved institutions of higher education and schools to remit specified fees for deposit into the board's fund. The schedule of fees is:

\$5,000 for an approval to operate;

\$3,500 for the renewal fee for the institution; and

\$500 as a processing fee for authorization of a substantive change to an approval to operate.

Additionally, the bill would impose an annual fee, payable to the Bureau of Private Postsecondary Education, for deposit into its fund.

This bill amendment authorizes the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the office of the Attorney General of such a school. The bill provides that it would be unprofessional conduct for any registered nurse to violate that provision.

Finally, this bill amendment prohibits the transfer of a loan to the General Fund if the transfer will interfere with the board's ability to fulfill their statutory mandate.

Amended analysis of 5/10/11:

This amendment removed the provision that would have required the Bureau of State Audits to audit the Board's diversion program upon a specified request by the Legislature.

Amended analysis of 5/17/11:

This bill amendment would delete the provisions requiring a school of nursing not affiliated with an institution of higher education to make an agreement with such an institution for purposes of awarding nursing degrees. It would instead provide that a school of nursing that is not an institution of higher education or that is affiliated with an institution of higher education, and that is subject to the requirements of the California Private Postsecondary Education Act of 2009, requires board approval to grant nursing degrees.

This bill amendment requires the board, for these schools of nursing, to have a memorandum of understanding with the Bureau for Postsecondary Education to ensure compliance with the provisions of Title 3 of the Education Code.

Amended analysis of 5/31/11:

This bill amendment removed the prohibition on transferring funds to the General Fund as a loan under circumstances in which the General Fund is or will be exhausted.

Amended analysis of 6/27/11:

This bill amendment would require meetings of the board to be held in the northern and southern parts of the state. The bill would require new nursing schools seeking board approval to be recognized or approved by an accrediting agency recognized by the United States Department of Education.

Amended analysis of 8/15/11:

This bill amendment would specify that the term "approved school of nursing" includes an approved nursing program. The bill deletes the imposition of an annual fee that would be deposited into the Private Postsecondary and Vocational Education Administration Fund.

BOARD POSITION: Support (4/13/11)

Board voted to sponsor SB 538 (6/15/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Continue support and sponsorship (8/10/11)

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY AUGUST 15, 2011

AMENDED IN ASSEMBLY JUNE 27, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 538

Introduced by Senator Price

February 17, 2011

An act to amend Sections 160, 2701, 2708, 2709, 2786, and 2798 of, and to add Sections 2786.2 and 2786.5 to, the Business and Professions Code, and to amend Section 830.3 of the Penal Code, relating to nursing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 538, as amended, Price. Nursing.

Existing law provides for the regulation of various professions and vocations by regulatory boards within the Department of Consumer Affairs. Existing law creates in the department a Division of Investigation and authorizes the Director of Consumer Affairs to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law the enforcement of which is charged to the department or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards.

Investigators of the Division of Investigation and of the Medical Board of California and the Dental Board of California have the authority of peace officers. Those entities are also authorized to employ individuals who are not peace officers to provide investigative services.

This bill would extend the application of those provisions to the Board of Registered Nursing. The bill would make conforming changes to related provisions.

Existing law, until January 1, 2012, creates within the Department of Consumer Affairs the Board of Registered Nursing, and provides for the board to select an executive director. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee of the Legislature.

This bill would extend the operation of these provisions until January 1, 2016, and would specify that the board is subject to review by the appropriate policy committees of the Legislature. The bill would require meetings of the board to be held in the northern and southern parts of the state *California*.

Existing law *defines the term “approved school of nursing”* and requires the board to approve and regulate registered nursing schools that are institutions of higher education or are affiliated with an institution of higher education, as specified. Existing law requires a school of nursing that is not affiliated with an institution of higher education to make an agreement with such an institution for purposes of awarding nursing degrees.

This bill would delete the provisions requiring an agreement and would instead provide that a school of nursing that is not an institution of higher education or that is affiliated with an institution of higher education, and that is subject to the requirements set forth in the California Private Postsecondary Education Act of 2009, requires board approval to grant nursing degrees. The bill would require new nursing schools seeking board approval to be recognized or approved by an accrediting agency recognized by the United States Department of Education. *The bill would specify that the term “approved school of nursing” includes an approved nursing program.* The bill would subject all ~~nursing~~ *approved schools of nursing* to specified fees for deposit into the Board of Registered Nursing Fund, a continuously appropriated fund. ~~The bill would also impose an annual fee, payable to the Bureau of Private Postsecondary Education, for deposit into the Private Postsecondary and Vocational Education Administration Fund.~~ Because

the bill adds a new source of revenue to a continuously appropriated fund, the bill would make an appropriation.

Existing law provides that it is unlawful for anyone to conduct a school of nursing unless the school has been approved by the board.

This bill would authorize the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the office of the Attorney General of such a school. The bill would also provide that it is unprofessional conduct for any registered nurse to violate that provision.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 160 of the Business and Professions Code
2 is amended to read:

3 160. (a) The Chief and, designated investigators of the Division
4 of Investigation of the department, designated investigators of the
5 Medical Board of California, designated investigators of the Dental
6 Board of California, and designated investigators of the Board of
7 Registered Nursing have the authority of peace officers while
8 engaged in exercising the powers granted or performing the duties
9 imposed upon them or the division in investigating the laws
10 administered by the various boards comprising the department or
11 commencing directly or indirectly any criminal prosecution arising
12 from any investigation conducted under these laws. All persons
13 herein referred to shall be deemed to be acting within the scope
14 of employment with respect to all acts and matters set forth in this
15 section.

16 (b) The Division of Investigation of the department, the Medical
17 Board of California, the Dental Board of California, and the Board
18 of Registered Nursing may employ individuals who are not peace
19 officers to provide investigative services.

20 SEC. 2. Section 2701 of the Business and Professions Code is
21 amended to read:

22 2701. (a) There is in the Department of Consumer Affairs the
23 Board of Registered Nursing consisting of nine members.

24 (b) Within the meaning of this chapter, board, or the board,
25 refers to the Board of Registered Nursing. Any reference in state
26 law to the Board of Nurse Examiners of the State of California or

1 California Board of Nursing Education and Nurse Registration
2 shall be construed to refer to the Board of Registered Nursing.

3 (c) This section shall remain in effect only until January 1, 2016,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2016, deletes or extends that date.
6 Notwithstanding any other provision of law, the repeal of this
7 section renders the board subject to review by the appropriate
8 policy committees of the Legislature.

9 SEC. 3. Section 2708 of the Business and Professions Code is
10 amended to read:

11 2708. (a) The board shall appoint an executive officer who
12 shall perform the duties delegated by the board and who shall be
13 responsible to it for the accomplishment of those duties.

14 (b) The executive officer shall be a nurse currently licensed
15 under this chapter and shall possess other qualifications as
16 determined by the board.

17 (c) The executive officer shall not be a member of the board.

18 (d) This section shall remain in effect only until January 1, 2016,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2016, deletes or extends that date.

21 SEC. 4. Section 2709 of the Business and Professions Code is
22 amended to read:

23 2709. The board for the purpose of transacting its business
24 shall meet at least once every three months, at times and places it
25 designates by resolution. Meetings shall be held in ~~the northern~~
26 ~~and southern parts of the state.~~ *and southern California.*

27 SEC. 5. Section 2786 of the Business and Professions Code is
28 amended to read:

29 2786. (a) An approved school of nursing, *or an approved*
30 *nursing program*, is one that has been approved by the board, gives
31 the course of instruction approved by the board, covering not less
32 than two academic years, is affiliated or conducted in connection
33 with one or more hospitals, and is an institution of higher
34 education. For purposes of this section, “institution of higher
35 education” includes, but is not limited to, community colleges
36 offering an associate of arts or associate of science degree, ~~or an~~
37 ~~entry-level master’s degree~~, and private postsecondary institutions
38 offering an associate of arts, associate of science, or baccalaureate
39 degree *or an entry-level master’s degree* and not subject to the
40 California Private Postsecondary Education Act of 2009 (Chapter

1 8 (commencing with Section 94800) of Part 59 of Division 10 of
2 Title 3 of the Education Code).

3 (b) A school of nursing that is not an institution of higher
4 education or that is affiliated with an institution of higher education
5 as required by the board, and that is subject to the California Private
6 Postsecondary Education Act of 2009, Chapter 8 (commencing
7 with Section 94800) of Part 59 of Division 10 of Title 3 of the
8 Education Code, shall be approved by the board to grant an
9 associate of arts or associate of science degree to individuals who
10 graduate from the school of nursing or to grant a baccalaureate
11 degree in nursing with successful completion of an additional
12 course of study as approved by the board and the institution
13 involved.

14 (c) If an institution of higher education, an affiliated institution,
15 or an institution subject to the California Private Postsecondary
16 Education Act of 2009 (Chapter 8 (commencing with Section
17 94800) of Part 59 of Division 10 of Title 3 of the Education Code),
18 applies for approval of a new school of nursing, the school of
19 nursing shall be required to be recognized or approved by an
20 accrediting agency recognized by the United States Department
21 of Education.

22 (d) The board shall determine by regulation the required subjects
23 of instruction to be completed in an approved school of nursing
24 for licensure as a registered nurse and shall include the minimum
25 units of theory and clinical experience necessary to achieve
26 essential clinical competency at the entry level of the registered
27 nurse. The board's standards shall be designed to require all schools
28 to provide clinical instruction in all phases of the educational
29 process.

30 (e) The board shall perform or cause to be performed an analysis
31 of the practice of the registered nurse no less than every five years.
32 Results of the analysis shall be utilized to assist in the
33 determination of the required subjects of instruction, validation of
34 the licensing examination, and assessment of the current practice
35 of nursing.

36 SEC. 6. Section 2786.2 is added to the Business and Professions
37 Code, to read:

38 2786.2. All private postsecondary schools of nursing approved
39 by the board pursuant to subdivision (b) of Section 2786 shall
40 comply with Article 8 (commencing with Section 94897) to Article

1 16 (commencing with Section 94928), inclusive, of, and shall be
2 subject to Article 18 (commencing with Section 94932) of, Chapter
3 8 of Part 59 of Division 10 of Title 3 of the Education Code. The
4 board shall have a memorandum of understanding with the Bureau
5 for Postsecondary Education to ensure compliance with these
6 provisions, including the handling of student complaints regarding
7 these approved schools of nursing.

8 SEC. 7. Section 2786.5 is added to the Business and Professions
9 Code, to read:

10 2786.5. (a) An institution of higher education or a private
11 postsecondary school of nursing approved by the board pursuant
12 to subdivision (b) of Section 2786 shall remit to the board for
13 deposit in the Board of Registered Nursing Fund the following
14 fees, in accordance with the following schedule:

15 (1) The fee for approval of a school of nursing shall be five
16 thousand dollars (\$5,000).

17 (2) The fee for continuing approval of a new nursing program
18 shall be three thousand five hundred dollars (\$3,500).

19 (3) The processing fee for authorization of a substantive change
20 to an approval of a school of nursing shall be five hundred dollars
21 (\$500).

22 ~~(b) In addition to any fees paid to the board pursuant to~~
23 ~~paragraphs (1) to (3), inclusive, each school that is approved to~~
24 ~~operate pursuant to subdivision (b) of Section 2786 shall remit an~~
25 ~~annual institutional fee to the Bureau for Private Postsecondary~~
26 ~~Education, in an amount equal to three-quarters of 1 percent of the~~
27 ~~school's annual revenues derived from students in California, but~~
28 ~~not exceeding a total of twenty-five thousand dollars (\$25,000)~~
29 ~~annually, to be deposited in the Private Postsecondary and~~
30 ~~Vocational Education Administration Fund.~~

31 (c)

32 (b) If the board determines that the annual cost of providing
33 oversight and review of a school of nursing, as required by this
34 article, is less than the amount of any fees required to be paid by
35 that institution pursuant to this article, the board may decrease the
36 fees applicable to that institution to an amount that is proportional
37 to the board's costs associated with that institution.

38 SEC. 8. Section 2798 of the Business and Professions Code is
39 amended to read:

1 2798. (a) It is unlawful for anyone to conduct a school of
2 nursing unless the school has been approved by the board.

3 (b) If the board has a reasonable belief, either by complaint or
4 otherwise, that a school is allowing students to apply for its nursing
5 program and that nursing program does not have the approval of
6 the board, the board shall immediately order the school to cease
7 and desist from offering students the ability to enroll in its nursing
8 program. The board shall also notify the Attorney General's office
9 that the school is offering students the ability to enroll in a nursing
10 program that does not have the approval of the board.

11 (c) It shall be unprofessional conduct for any registered nurse
12 to violate or attempt to violate, either directly or indirectly, or to
13 assist or abet the violation of, this section.

14 (d) This section is not applicable to schools conducted under
15 Section 2789 of this chapter.

16 SEC. 9. Section 830.3 of the Penal Code is amended to read:

17 830.3. The following persons are peace officers whose authority
18 extends to any place in the state for the purpose of performing
19 their primary duty or when making an arrest pursuant to Section
20 836 as to any public offense with respect to which there is
21 immediate danger to person or property, or of the escape of the
22 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
23 the Government Code. These peace officers may carry firearms
24 only if authorized and under those terms and conditions as specified
25 by their employing agencies:

26 (a) Persons employed by the Division of Investigation of the
27 Department of Consumer Affairs and investigators of the Medical
28 Board of California, the Board of Dental Examiners, and the Board
29 of Registered Nursing who are designated by the Director of
30 Consumer Affairs, provided that the primary duty of these peace
31 officers shall be the enforcement of the law as that duty is set forth
32 in Section 160 of the Business and Professions Code.

33 (b) Voluntary fire wardens designated by the Director of
34 Forestry and Fire Protection pursuant to Section 4156 of the Public
35 Resources Code, provided that the primary duty of these peace
36 officers shall be the enforcement of the law as that duty is set forth
37 in Section 4156 of that code.

38 (c) Employees of the Department of Motor Vehicles designated
39 in Section 1655 of the Vehicle Code, provided that the primary

1 duty of these peace officers shall be the enforcement of the law as
2 that duty is set forth in Section 1655 of that code.

3 (d) Investigators of the California Horse Racing Board
4 designated by the board, provided that the primary duty of these
5 peace officers shall be the enforcement of Chapter 4 (commencing
6 with Section 19400) of Division 8 of the Business and Professions
7 Code and Chapter 10 (commencing with Section 330) of Title 9
8 of Part 1 of this code.

9 (e) The State Fire Marshal and assistant or deputy state fire
10 marshals appointed pursuant to Section 13103 of the Health and
11 Safety Code, provided that the primary duty of these peace officers
12 shall be the enforcement of the law as that duty is set forth in
13 Section 13104 of that code.

14 (f) Inspectors of the food and drug section designated by the
15 chief pursuant to subdivision (a) of Section 106500 of the Health
16 and Safety Code, provided that the primary duty of these peace
17 officers shall be the enforcement of the law as that duty is set forth
18 in Section 106500 of that code.

19 (g) All investigators of the Division of Labor Standards
20 Enforcement designated by the Labor Commissioner, provided
21 that the primary duty of these peace officers shall be the
22 enforcement of the law as prescribed in Section 95 of the Labor
23 Code.

24 (h) All investigators of the State Departments of Health Care
25 Services, Public Health, Social Services, Mental Health, and
26 Alcohol and Drug Programs, the Department of Toxic Substances
27 Control, the Office of Statewide Health Planning and Development,
28 and the Public Employees' Retirement System, provided that the
29 primary duty of these peace officers shall be the enforcement of
30 the law relating to the duties of his or her department or office.
31 Notwithstanding any other provision of law, investigators of the
32 Public Employees' Retirement System shall not carry firearms.

33 (i) The Chief of the Bureau of Fraudulent Claims of the
34 Department of Insurance and those investigators designated by the
35 chief, provided that the primary duty of those investigators shall
36 be the enforcement of Section 550.

37 (j) Employees of the Department of Housing and Community
38 Development designated under Section 18023 of the Health and
39 Safety Code, provided that the primary duty of these peace officers

1 shall be the enforcement of the law as that duty is set forth in
2 Section 18023 of that code.

3 (k) Investigators of the office of the Controller, provided that
4 the primary duty of these investigators shall be the enforcement
5 of the law relating to the duties of that office. Notwithstanding any
6 other law, except as authorized by the Controller, the peace officers
7 designated pursuant to this subdivision shall not carry firearms.

8 (l) Investigators of the Department of Corporations designated
9 by the Commissioner of Corporations, provided that the primary
10 duty of these investigators shall be the enforcement of the
11 provisions of law administered by the Department of Corporations.
12 Notwithstanding any other provision of law, the peace officers
13 designated pursuant to this subdivision shall not carry firearms.

14 (m) Persons employed by the Contractors' State License Board
15 designated by the Director of Consumer Affairs pursuant to Section
16 7011.5 of the Business and Professions Code, provided that the
17 primary duty of these persons shall be the enforcement of the law
18 as that duty is set forth in Section 7011.5, and in Chapter 9
19 (commencing with Section 7000) of Division 3, of that code. The
20 Director of Consumer Affairs may designate as peace officers not
21 more than 12 persons who shall at the time of their designation be
22 assigned to the special investigations unit of the board.
23 Notwithstanding any other provision of law, the persons designated
24 pursuant to this subdivision shall not carry firearms.

25 (n) The Chief and coordinators of the Law Enforcement Branch
26 of the California Emergency Management Agency.

27 (o) Investigators of the office of the Secretary of State designated
28 by the Secretary of State, provided that the primary duty of these
29 peace officers shall be the enforcement of the law as prescribed
30 in Chapter 3 (commencing with Section 8200) of Division 1 of
31 Title 2 of, and Section 12172.5 of, the Government Code.
32 Notwithstanding any other provision of law, the peace officers
33 designated pursuant to this subdivision shall not carry firearms.

34 (p) The Deputy Director for Security designated by Section
35 8880.38 of the Government Code, and all lottery security personnel
36 assigned to the California State Lottery and designated by the
37 director, provided that the primary duty of any of those peace
38 officers shall be the enforcement of the laws related to assuring
39 the integrity, honesty, and fairness of the operation and
40 administration of the California State Lottery.

1 (q) Investigators employed by the Investigation Division of the
2 Employment Development Department designated by the director
3 of the department, provided that the primary duty of those peace
4 officers shall be the enforcement of the law as that duty is set forth
5 in Section 317 of the Unemployment Insurance Code.

6 Notwithstanding any other provision of law, the peace officers
7 designated pursuant to this subdivision shall not carry firearms.

8 (r) The chief and assistant chief of museum security and safety
9 of the California Science Center, as designated by the executive
10 director pursuant to Section 4108 of the Food and Agricultural
11 Code, provided that the primary duty of those peace officers shall
12 be the enforcement of the law as that duty is set forth in Section
13 4108 of the Food and Agricultural Code.

14 (s) Employees of the Franchise Tax Board designated by the
15 board, provided that the primary duty of these peace officers shall
16 be the enforcement of the law as set forth in Chapter 9
17 (commencing with Section 19701) of Part 10.2 of Division 2 of
18 the Revenue and Taxation Code.

19 (t) Notwithstanding any other provision of this section, a peace
20 officer authorized by this section shall not be authorized to carry
21 firearms by his or her employing agency until that agency has
22 adopted a policy on the use of deadly force by those peace officers,
23 and until those peace officers have been instructed in the employing
24 agency's policy on the use of deadly force.

25 Every peace officer authorized pursuant to this section to carry
26 firearms by his or her employing agency shall qualify in the use
27 of the firearms at least every six months.

28 (u) Investigators of the Department of Managed Health Care
29 designated by the Director of the Department of Managed Health
30 Care, provided that the primary duty of these investigators shall
31 be the enforcement of the provisions of laws administered by the
32 Director of the Department of Managed Health Care.
33 Notwithstanding any other provision of law, the peace officers
34 designated pursuant to this subdivision shall not carry firearms.

35 (v) The Chief, Deputy Chief, supervising investigators, and
36 investigators of the Office of Protective Services of the State
37 Department of Developmental Services, provided that the primary

- 1 duty of each of those persons shall be the enforcement of the law
- 2 relating to the duties of his or her department or office.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 14, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 541
SPONSOR:	Medical Board of California & Contractors State License Board	BILL STATUS:	Enrollment
SUBJECT:	Regulatory boards: expert consultants	DATE LAST AMENDED:	6/21/11

SUMMARY:

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law.

Existing law establishes standards relating to personal service contracts in state employment.

ANALYSIS:

This bill would authorize boards within the Department of Consumer Affairs to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of consultants, instead of having to complete the formal contracting process for each consultant.

This bill would declare that it is to take effect immediately as an urgency statute.

Amended analysis of 6/21/11:

This bill amendment would clarify that the provisions would not expand the scope of practice of an expert consultant providing services.

Action:

Urgency clause adopted in the Assembly 8/25/11 and the bill sent to the Senate.

BOARD POSITION: Support (6/15/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (8/10/11)

SUPPORT:

Medical Board of California (co-sponsor)
Contractors State License Board (co-sponsor)
Board of Barbering and Cosmetology
Board of Behavioral Sciences
Board of Optometry
Board of Pharmacy
Board of Podiatric Medicine
Board of Psychology
Board of Registered Nursing
Board of Vocational Nursing and Psychiatric Technicians
California Board of Accountancy
California State Pipe Trades Council
Court Reporters Board of California
Dental Board of California
International Brotherhood of Electrical Workers
Physician Assistant Committee
Respiratory Care Board of California
State Board of Guide Dogs for the Blind
Western States Council of Sheet Metal Workers

OPPOSE:

None on file

AMENDED IN ASSEMBLY JUNE 21, 2011

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 541

Introduced by Senator Price

February 17, 2011

An act to add Section 40 to the Business and Professions Code, relating to ~~profession~~ *professions* and vocations, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as amended, Price. ~~Contractors' State License Regulatory boards: expert consultants.~~

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law, the Osteopathic Act, requires the Osteopathic Medical Board of California to regulate osteopathic physicians and surgeons. Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law. Existing law establishes standards relating to personal service contracts in state employment.

This bill would authorize these boards to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts described above, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of these consultants.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 40 is added to the Business and
2 Professions Code, to read:

3 40. (a) Subject to the standards described in Section 19130 of
4 the Government Code, any board, as defined in Section 22, the
5 State Board of Chiropractic Examiners, or the Osteopathic Medical
6 Board of California may enter into an agreement with an expert
7 consultant to do any of the following:

8 (1) Provide an expert opinion on enforcement-related matters,
9 including providing testimony at an administrative hearing.

10 (2) Assist the board as a subject matter expert in examination
11 development, examination validation, or occupational analyses.

12 (3) Evaluate the mental or physical health of a licensee or an
13 applicant for a license as may be necessary to protect the public
14 health and safety.

15 (b) An executed contract between a board and an expert
16 consultant shall be exempt from the provisions of Part 2
17 (commencing with Section 10100) of Division 2 of the Public
18 Contract Code.

19 (c) Each board shall establish policies and procedures for the
20 selection and use of expert consultants.

21 (d) *Nothing in this section shall be construed to expand the*
22 *scope of practice of an expert consultant providing services*
23 *pursuant to this section.*

24 SEC. 2. This act is an urgency statute necessary for the
25 immediate preservation of the public peace, health, or safety within
26 the meaning of Article IV of the Constitution and shall go into
27 immediate effect. The facts constituting the necessity are:

28 To ensure that licensees engaging in certain professions and
29 vocations are adequately regulated at the earliest possible time in
30 order to protect and safeguard consumers and the public in this
31 state, it is necessary that this act take effect immediately.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
September 14, 2011
BILL ANALYSIS**

AUTHOR:	Kehoe	BILL NUMBER:	SB 747
SPONSOR:	Equality California	BILL STATUS:	Enrollment
SUBJECT:	Continuing Education: Lesbian, gay, bisexual, and transgender patients	DATE LAST AMENDED:	8/26/11

SUMMARY:

Existing law provides for licensing and regulation of various healing arts professions and generally requires licensees to complete continuing education courses in order to remain eligible to renew their licenses or certifications.

ANALYSIS:

This bill would require physicians and surgeons, registered nurses, certified vocational nurses, psychologists, marriage and family therapists, licensed clinical social workers, and psychiatric technicians to complete at least one course of 2 to 5 hours in duration that provides instruction on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender persons, as specified. The bill would require the applicable licensing board to enforce these requirements.

Amended analysis of 4/4/11:

This bill amendment would add physician assistants, nurse practitioners, medical assistants and certified nurse assistants to the provision that requires the specified continuing education course. Also, the provisions in this bill would become effective on January 1, 2013.

Currently, the pre-licensure nursing programs are required to include cultural diversity **(1426d)** in the curriculum, thereby, addressing the proposed provisions in this bill. Also, in order for the nurse to renew his/her license, he/she must complete 30 hours of continuing education, and the learning experiences are expected to enhance the knowledge of the Registered Nurse at a level above that required for licensure **(1456c)**.

Amended analysis of 4/25/11:

This bill amendment would remove "medical assistants" from the list of healing art professionals.

This bill would have a fiscal impact on the Board of Registered Nursing (BRN). The BRN would need to promulgate regulations, audit licensees for compliance and send

confirmation or denial letters to licensees based on compliance. The cost to the BRN would be \$61,000 ongoing to support a staff person to meet the provisions in this bill.

Amended analysis of 6/13/11:

This bill would require individuals licensed by the board before January 1, 2013, to complete the continuing education course requirement no later than January 1, 2018. Individuals who are newly licensed by the board on and after January 1, 2013, would be required to complete the course before their third license renewal date.

This amendment would require the board to request all licensees to disclose on the renewal form or a supplemental form whether they had complied with this requirement.

Amended analysis as of 8/26/11:

This amendment provides that there would be certain exceptions to the provisions detailed in the original analysis. The Board of Registered Nursing would not be required to ensure compliance of licensees except to inform them that this requirement exists and that proof of compliance must be submitted during the license renewal process.

BOARD POSITION: Oppose (4/13/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/11); Oppose (8/10/11)

SUPPORT:

Equality California (Sponsor)
California Communities United Institute
California National Organization for Women
California STD Controllers Association
Dr. Susan Love Research Foundation
Gay & Lesbian Medical Association
Lesbian and Gay Psychotherapy Association of Southern California, Inc
LGBT Psychotherapists Association of the San Francisco Bay Area
Mental Health America of Northern California
Numerous health care providers and individuals

OPPOSE:

California Academy of Family Physicians
California Association of Marriage and Family Therapists
California Orthopaedic Association
California Psychological Association

AMENDED IN ASSEMBLY AUGUST 26, 2011

AMENDED IN ASSEMBLY JUNE 13, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE APRIL 4, 2011

SENATE BILL

No. 747

Introduced by Senator Kehoe

February 18, 2011

An act to amend Sections 2190.1, 2811.5, 2892.5, 2915, 3524.5, 4517, 4980.54, and 4996.22 of the Business and Professions Code, and to amend Section 1337.3 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 747, as amended, Kehoe. Continuing education: lesbian, gay, bisexual, and transgender patients.

Existing law provides for licensing and regulation of various healing arts professions and generally requires licensees to complete continuing education courses in order to remain eligible to renew their licenses or certifications. Existing law imposes various training requirements for certified nurse assistants regulated by the State Department of Public Health.

This bill would require physicians and surgeons, physician assistants, registered nurses, licensed vocational nurses, nurse practitioners, psychologists, marriage and family therapists, licensed clinical social workers, psychiatric technicians, and certified nurse assistants to complete at least one course of 2 to 5 hours in duration that provides instruction on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender

persons, as specified, *with certain exceptions*. The bill would *generally* require the applicable licensing or certifying entity to enforce these requirements, *with certain exceptions*. The new requirements would become effective on January 1, 2013.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2190.1 of the Business and Professions
2 Code is amended to read:
3 2190.1. (a) The continuing medical education standards of
4 Section 2190 may be met by educational activities that meet the
5 standards of the board and serve to maintain, develop, or increase
6 the knowledge, skills, and professional performance that a
7 physician and surgeon uses to provide care, or improve the quality
8 of care provided for patients, including, but not limited to,
9 educational activities that meet any of the following criteria:
10 (1) Have a scientific or clinical content with a direct bearing on
11 the quality or cost-effective provision of patient care, community
12 or public health, or preventive medicine.
13 (2) Concern quality assurance or improvement, risk
14 management, health facility standards, or the legal aspects of
15 clinical medicine.
16 (3) Concern bioethics or professional ethics.
17 (4) Are designed to improve the physician-patient relationship.
18 (b) (1) On and after July 1, 2006, all continuing medical
19 education courses shall contain curriculum that includes cultural
20 and linguistic competency in the practice of medicine.
21 (2) Notwithstanding the provisions of paragraph (1), a
22 continuing medical education course dedicated solely to research
23 or other issues that does not include a direct patient care component
24 and a course offered by a continuing medical education provider
25 that is not located in this state are not required to contain
26 curriculum that includes cultural and linguistic competency in the
27 practice of medicine.
28 (3) Associations that accredit continuing medical education
29 courses shall develop standards before July 1, 2006, for compliance
30 with the requirements of paragraph (1). The associations may

1 develop these standards in conjunction with an advisory group that
2 has expertise in cultural and linguistic competency issues.

3 (4) A physician and surgeon who completes a continuing
4 education course meeting the standards developed pursuant to
5 paragraph (3) satisfies the continuing education requirement for
6 cultural and linguistic competency.

7 (c) In order to satisfy the requirements of subdivision (b),
8 continuing medical education courses shall address at least one or
9 a combination of the following:

10 (1) Cultural competency. For the purposes of this section,
11 “cultural competency” means a set of integrated attitudes,
12 knowledge, and skills that enables a health care professional or
13 organization to care effectively for patients from diverse cultures,
14 groups, and communities. At a minimum, cultural competency is
15 recommended to include the following:

16 (A) Applying linguistic skills to communicate effectively with
17 the target population.

18 (B) Utilizing cultural information to establish therapeutic
19 relationships.

20 (C) Eliciting and incorporating pertinent cultural data in
21 diagnosis and treatment.

22 (D) Understanding and applying cultural and ethnic data to the
23 process of clinical care.

24 (2) Linguistic competency. For the purposes of this section,
25 “linguistic competency” means the ability of a physician and
26 surgeon to provide patients who do not speak English or who have
27 limited ability to speak English, direct communication in the
28 patient’s primary language.

29 (3) A review and explanation of relevant federal and state laws
30 and regulations regarding linguistic access, including, but not
31 limited to, the federal Civil Rights Act (42 U.S.C. Sec. 1981, et
32 seq.), Executive Order 13166 of August 11, 2000, of the President
33 of the United States, and the Dymally-Alatorre Bilingual Services
34 Act (Chapter 17.5 (commencing with Section 7290) of Division
35 7 of Title 1 of the Government Code).

36 (d) (1) On and after January 1, 2013, the board shall require all
37 of its licensees under this chapter to take at least one continuing
38 education course that provides instruction on cultural competency,
39 sensitivity, and best practices for providing adequate care to
40 lesbian, gay, bisexual, and transgender persons. Persons licensed

1 by the board before January 1, 2013, shall complete the course no
2 later than January 1, 2017. Persons who are newly licensed by the
3 board on and after January 1, 2013, shall complete the course
4 within four years of their initial license issuance date or their
5 second license renewal date, whichever occurs first. The course
6 shall be between two and five hours in duration and shall contain
7 content similar to the content described in the publication of the
8 Gay and Lesbian Medical Association entitled “Guidelines for
9 Care of Lesbian, Gay, Bisexual, and Transgender Patients.” The
10 board may specify the required contents of the course by regulation
11 consistent with this subdivision. The board shall enforce this
12 requirement in the same manner as it enforces other required
13 continuing education requirements.

14 *(2) By regulatory action the board may exempt physicians and*
15 *surgeons by practice status category from the requirements of this*
16 *subdivision if the physician and surgeons does not engage in direct*
17 *patient care, does not provide patient consultations, or does not*
18 *reside in the State of California.*

19 *(3) This subdivision shall not apply to physicians and surgeons*
20 *practicing in pathology or radiology specialty areas.*

21 (e) Notwithstanding subdivision (a), educational activities that
22 are not directed toward the practice of medicine, or are directed
23 primarily toward the business aspects of medical practice,
24 including, but not limited to, medical office management, billing
25 and coding, and marketing shall not be deemed to meet the
26 continuing medical education standards for licensed physicians
27 and surgeons.

28 (f) Educational activities that meet the content standards set
29 forth in this section and are accredited by the California Medical
30 Association or the Accreditation Council for Continuing Medical
31 Education may be deemed by the Division of Licensing to meet
32 its continuing medical education standards.

33 SEC. 2. Section 2811.5 of the Business and Professions Code
34 is amended to read:

35 2811.5. (a) Each person renewing his or her license under
36 Section 2811 shall submit proof satisfactory to the board that,
37 during the preceding two-year period, he or she has been informed
38 of the developments in the registered nurse field or in any special
39 area of practice engaged in by the licensee, occurring since the
40 last renewal thereof, either by pursuing a course or courses of

1 continuing education in the registered nurse field or relevant to
2 the practice of the licensee, and approved by the board, or by other
3 means deemed equivalent by the board.

4 (b) For purposes of this section, the board shall, by regulation,
5 establish standards for continuing education. The standards shall
6 be established in a manner to ensure that a variety of alternative
7 forms of continuing education are available to licensees, including,
8 but not limited to, academic studies, in-service education, institutes,
9 seminars, lectures, conferences, workshops, extension studies, and
10 home study programs. The standards shall take cognizance of
11 specialized areas of practice. The continuing education standards
12 established by the board shall not exceed 30 hours of direct
13 participation in a course or courses approved by the board, or its
14 equivalent in the units of measure adopted by the board.

15 (c) The board shall encourage continuing education in spousal
16 or partner abuse detection and treatment. In the event the board
17 establishes a requirement for continuing education coursework in
18 spousal or partner abuse detection or treatment, that requirement
19 shall be met by each licensee within no more than four years from
20 the date the requirement is imposed.

21 (d) In establishing standards for continuing education, the board
22 shall consider including a course in the special care needs of
23 individuals and their families facing end-of-life issues, including,
24 but not limited to, all of the following:

- 25 (1) Pain and symptom management.
- 26 (2) The psycho-social dynamics of death.
- 27 (3) Dying and bereavement.
- 28 (4) Hospice care.

29 (e) In establishing standards for continuing education, the board
30 may include a course on pain management.

31 (f) This section shall not apply to licensees during the first two
32 years immediately following their initial licensure in California
33 or any other governmental jurisdiction.

34 (g) On and after January 1, 2013, ~~the board shall require all of~~
35 ~~its licensees to~~ *all persons licensed by the board shall* take at least
36 one continuing education course that provides instruction on
37 cultural competency, sensitivity, and best practices for providing
38 adequate care to lesbian, gay, bisexual, and transgender persons.
39 Persons licensed by the board before January 1, 2013, shall
40 complete the course no later than January 1, 2018. Persons who

1 are newly licensed by the board on and after January 1, 2013, shall
2 complete the course before their third license renewal date. The
3 course shall be between two and five hours in duration and shall
4 contain content similar to the content described in the publication
5 of the Gay and Lesbian Medical Association entitled “Guidelines
6 for Care of Lesbian, Gay, Bisexual, and Transgender Patients.”
7 The board may specify the required contents of the course by
8 regulation consistent with this subdivision. The board shall not
9 enforce this requirement ~~in the same manner as it enforces other~~
10 ~~required continuing education requirements, and shall instead~~
11 ~~request all persons licensed by the board to disclose on the renewal~~
12 ~~form or a supplemental form whether they have complied with~~
13 ~~this requirement. nor shall the board ensure compliance of~~
14 ~~licensees except to inform licensees that this requirement exists~~
15 ~~and that proof of compliance must be submitted during the license~~
16 ~~renewal process.~~

17 (h) The board may, in accordance with the intent of this section,
18 make exceptions from continuing education requirements for
19 licensees residing in another state or country, or for reasons of
20 health, military service, or other good cause.

21 (i) This section shall apply to all persons licensed under this
22 chapter, including nurse practitioners.

23 SEC. 3. Section 2892.5 of the Business and Professions Code
24 is amended to read:

25 2892.5. (a) Each person renewing his or her license under the
26 provisions of this chapter shall submit proof satisfactory to the
27 board that, during the preceding two-year period, he or she has
28 informed himself or herself of developments in the vocational
29 nurse field or in any special area of vocational nurse practice,
30 occurring since the issuance of his or her certificate, or the last
31 renewal thereof, whichever last occurred, either by pursuing a
32 course or courses of continuing education approved by the board
33 in the vocational nurse field or relevant to the practice of such
34 licensee, and approved by the board; or by other means deemed
35 equivalent by the board.

36 (b) For purposes of this section, the board shall, by regulation,
37 establish standards for continuing education. The standards shall
38 be established in a manner to ensure that a variety of alternative
39 forms of continuing education are available to licensees including,
40 but not limited to, academic studies, in-service education, institutes,

1 seminars, lectures, conferences, workshops, extension studies, and
2 home study programs. The standards shall take cognizance of
3 specialized areas of practice. The continuing education standards
4 established by the board shall not exceed 30 hours of direct
5 participation in a course or courses approved by the board, or its
6 equivalent in the units of measure adopted by the board.

7 (c) This section shall not apply to the first license renewal
8 following the initial issuance of a license.

9 (d) On and after January 1, 2013, the board shall require all of
10 its licensees to take at least one continuing education course that
11 provides instruction on cultural competency, sensitivity, and best
12 practices for providing adequate care to lesbian, gay, bisexual, and
13 transgender persons. Persons licensed by the board before January
14 1, 2013, shall complete the course no later than January 1, 2017.
15 Persons who are newly licensed by the board on and after January
16 1, 2013, shall complete the course within four years of their initial
17 license issuance date or their second license renewal date,
18 whichever occurs first. The course shall be between two and five
19 hours in duration and shall contain content similar to the content
20 described in the publication of the Gay and Lesbian Medical
21 Association entitled "Guidelines for Care of Lesbian, Gay,
22 Bisexual, and Transgender Patients." The board may specify the
23 required contents of the course by regulation consistent with this
24 subdivision. The board shall enforce this requirement in the same
25 manner as it enforces other required continuing education
26 requirements.

27 (e) The board may, in accordance with the intent of this section,
28 make exceptions from continuing education for licensees residing
29 in another state or country, or for reasons of health, military service,
30 or other good cause.

31 SEC. 4. Section 2915 of the Business and Professions Code is
32 amended to read:

33 2915. (a) Except as provided in this section, on or after January
34 1, 1996, the board shall not issue any renewal license unless the
35 applicant submits proof that he or she has completed no less than
36 18 hours of approved continuing education in the preceding year.
37 On or after January 1, 1997, except as provided in this section, the
38 board shall issue renewal licenses only to those applicants who
39 have completed 36 hours of approved continuing education in the
40 preceding two years.

(b) Each person renewing his or her license issued pursuant to this chapter shall submit proof of compliance with this section to the board. False statements submitted pursuant to this section shall be a violation of Section 2970.

(c) A person applying for relicensure or for reinstatement to an active license status shall certify under penalty of perjury that he or she is in compliance with this section.

(d) (1) The continuing education requirement shall include, but shall not be limited to, courses required pursuant to Sections 25 and 28. The requirement may include courses pursuant to Sections 32 and 2914.1.

(2) (A) The board shall require a licensed psychologist who began graduate study prior to January 1, 2004, to take a continuing education course during his or her first renewal period after the operative date of this section in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement.

(B) Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under subdivision (a).

(C) A licensed psychologist whose practice does not include the direct provision of mental health services may apply to the board for an exemption from the requirements of this paragraph.

(3) Continuing education instruction approved to meet the requirements of this section shall be completed within the State of California, or shall be approved for continuing education credit by the American Psychological Association or its equivalent as approved by the board.

(e) The board may establish a policy for exceptions from the continuing education requirement of this section.

(f) The board may recognize continuing education courses that have been approved by one or more private nonprofit organizations that have at least 10 years' experience managing continuing education programs for psychologists on a statewide basis, including, but not limited to:

1 (1) Maintaining and managing related records and data.

2 (2) Monitoring and approving courses.

3 (g) The board shall adopt regulations as necessary for
4 implementation of this section.

5 (h) A licensed psychologist shall choose continuing education
6 instruction that is related to the assessment, diagnosis, and
7 intervention for the client population being served or to the fields
8 of psychology in which the psychologist intends to provide
9 services, that may include new theoretical approaches, research,
10 and applied techniques. Continuing education instruction shall
11 include required courses specified in subdivision (d).

12 (i) A psychologist shall not practice outside his or her particular
13 field or fields of competence as established by his or her education,
14 training, continuing education, and experience.

15 (j) On and after January 1, 2013, the board shall require every
16 person licensed under this chapter to take at least one continuing
17 education course that provides instruction on cultural competency,
18 sensitivity, and best practices for providing adequate care to
19 lesbian, gay, bisexual, and transgender persons. Persons licensed
20 by the board before January 1, 2013, shall complete the course no
21 later than January 1, 2017. Persons who are newly licensed by the
22 board under this chapter on and after January 1, 2013, shall
23 complete the course within four years of their initial license
24 issuance date or their second license renewal date, whichever
25 occurs first. The course shall be between two and five hours in
26 duration and shall contain content similar to the content described
27 in the publication of the Gay and Lesbian Medical Association
28 entitled “Guidelines for Care of Lesbian, Gay, Bisexual, and
29 Transgender Patients.” The board may specify the required contents
30 of the course by regulation consistent with this subdivision. The
31 board shall enforce this requirement in the same manner as it
32 enforces other required continuing education requirements.

33 (k) The administration of this section may be funded through
34 professional license fees and continuing education provider and
35 course approval fees, or both. The fees related to the administration
36 of this section shall not exceed the costs of administering the
37 corresponding provisions of this section.

38 (l) Continuing education credit may be approved for those
39 licensees who serve as commissioners on any examination pursuant
40 to Section 2947, subject to limitations established by the board.

1 SEC. 5. Section 3524.5 of the Business and Professions Code
2 is amended to read:

3 3524.5. (a) The committee may require a licensee to complete
4 continuing education as a condition of license renewal under
5 Section 3523 or 3524. The committee shall not require more than
6 50 hours of continuing education every two years. The committee
7 shall, as it deems appropriate, accept certification by the National
8 Commission on Certification of Physician Assistants (NCCPA),
9 or another qualified certifying body, as determined by the
10 committee, as evidence of compliance with continuing education
11 requirements.

12 (b) On and after January 1, 2013, the board shall require all of
13 its licensees under this chapter to take at least one continuing
14 education course that provides instruction on cultural competency,
15 sensitivity, and best practices for providing adequate care to
16 lesbian, gay, bisexual, and transgender persons. Persons licensed
17 by the board before January 1, 2013, shall complete the course no
18 later than January 1, 2017. Persons who are newly licensed by the
19 board on and after January 1, 2013, shall complete the course
20 within four years of their initial license issuance date or their
21 second license renewal date, whichever occurs first. The course
22 shall be between two and five hours in duration and shall contain
23 content similar to the content described in the publication of the
24 Gay and Lesbian Medical Association entitled "Guidelines for
25 Care of Lesbian, Gay, Bisexual, and Transgender Patients." The
26 board may specify the required contents of the course by regulation
27 consistent with this subdivision. The board shall enforce this
28 requirement in the same manner as it enforces other required
29 continuing education requirements.

30 SEC. 6. Section 4517 of the Business and Professions Code is
31 amended to read:

32 4517. (a) The board may, in its discretion, provide for a
33 continuing education program in connection with the professional
34 functions and courses described in this chapter. The number of
35 course hours that the board may require in a continuing education
36 program shall not exceed the number of course hours prescribed
37 for licensed vocational nurses pursuant to Section 2892.5.

38 (b) On and after January 1, 2013, the board shall require all of
39 its licensees to take at least one continuing education course that
40 provides instruction on cultural competency, sensitivity, and best

1 practices for providing adequate care to lesbian, gay, bisexual, and
2 transgender persons. Persons licensed by the board before January
3 1, 2013, shall complete the course no later than January 1, 2017.
4 Persons who are newly licensed by the board on and after January
5 1, 2013, shall complete the course within four years of their initial
6 license issuance date or their second license renewal date,
7 whichever occurs first. The course shall be between two and five
8 hours in duration and shall contain content similar to the content
9 described in the publication of the Gay and Lesbian Medical
10 Association entitled "Guidelines for Care of Lesbian, Gay,
11 Bisexual, and Transgender Patients." The board may specify the
12 required contents of the course by regulation consistent with this
13 subdivision. The board shall enforce this requirement in the same
14 manner as it enforces other required continuing education
15 requirements.

16 SEC. 7. Section 4980.54 of the Business and Professions Code
17 is amended to read:

18 4980.54. (a) The Legislature recognizes that the education and
19 experience requirements in this chapter constitute only minimal
20 requirements to ensure that an applicant is prepared and qualified
21 to take the licensure examinations as specified in subdivision (d)
22 of Section 4980.40 and, if he or she passes those examinations, to
23 begin practice.

24 (b) In order to continuously improve the competence of licensed
25 marriage and family therapists and as a model for all
26 psychotherapeutic professions, the Legislature encourages all
27 licensees to regularly engage in continuing education related to
28 the profession or scope of practice as defined in this chapter.

29 (c) Except as provided in subdivision (e), the board shall not
30 renew any license pursuant to this chapter unless the applicant
31 certifies to the board, on a form prescribed by the board, that he
32 or she has completed not less than 36 hours of approved continuing
33 education in or relevant to the field of marriage and family therapy
34 in the preceding two years, as determined by the board.

35 (d) The board shall have the right to audit the records of any
36 applicant to verify the completion of the continuing education
37 requirement. Applicants shall maintain records of completion of
38 required continuing education coursework for a minimum of two
39 years and shall make these records available to the board for
40 auditing purposes upon request.

1 (e) The board may establish exceptions from the continuing
2 education requirements of this section for good cause, as defined
3 by the board.

4 (f) The continuing education shall be obtained from one of the
5 following sources:

6 (1) An accredited school or state-approved school that meets
7 the requirements set forth in Section 4980.36 or 4980.37. Nothing
8 in this paragraph shall be construed as requiring coursework to be
9 offered as part of a regular degree program.

10 (2) Other continuing education providers, including, but not
11 limited to, a professional marriage and family therapist association,
12 a licensed health facility, a governmental entity, a continuing
13 education unit of an accredited four-year institution of higher
14 learning, or a mental health professional association, approved by
15 the board.

16 (g) The board shall establish, by regulation, a procedure for
17 approving providers of continuing education courses, and all
18 providers of continuing education, as described in paragraphs (1)
19 and (2) of subdivision (f), shall adhere to procedures established
20 by the board. The board may revoke or deny the right of a provider
21 to offer continuing education coursework pursuant to this section
22 for failure to comply with the requirements of this section or any
23 regulation adopted pursuant to this section.

24 (h) Training, education, and coursework by approved providers
25 shall incorporate one or more of the following:

26 (1) Aspects of the discipline that are fundamental to the
27 understanding or the practice of marriage and family therapy.

28 (2) Aspects of the discipline of marriage and family therapy in
29 which significant recent developments have occurred.

30 (3) Aspects of other disciplines that enhance the understanding
31 or the practice of marriage and family therapy.

32 (i) A system of continuing education for licensed marriage and
33 family therapists shall include courses directly related to the
34 diagnosis, assessment, and treatment of the client population being
35 served.

36 (j) On and after January 1, 2013, the board shall require all of
37 its licensees to take at least one continuing education course that
38 provides instruction on cultural competency, sensitivity, and best
39 practices for providing adequate care to lesbian, gay, bisexual, and
40 transgender persons. Persons licensed by the board before January

1 1, 2013, shall complete the course no later than January 1, 2017.
2 Persons who are newly licensed by the board on and after January
3 1, 2013, shall complete the course within four years of their initial
4 license issuance date or their second license renewal date,
5 whichever occurs first. The course shall be between two and five
6 hours in duration and shall contain content similar to the content
7 described in the publication of the Gay and Lesbian Medical
8 Association entitled “Guidelines for Care of Lesbian, Gay,
9 Bisexual, and Transgender Patients.” The board may specify the
10 required contents of the course by regulation consistent with this
11 subdivision. The board shall enforce this requirement in the same
12 manner as it enforces other required continuing education
13 requirements.

14 (k) The board shall, by regulation, fund the administration of
15 this section through continuing education provider fees to be
16 deposited in the Behavioral Sciences Fund. The fees related to the
17 administration of this section shall be sufficient to meet, but shall
18 not exceed, the costs of administering the corresponding provisions
19 of this section. For purposes of this subdivision, a provider of
20 continuing education as described in paragraph (1) of subdivision
21 (f) shall be deemed to be an approved provider.

22 (l) The continuing education requirements of this section shall
23 comply fully with the guidelines for mandatory continuing
24 education established by the Department of Consumer Affairs
25 pursuant to Section 166.

26 SEC. 8. Section 4996.22 of the Business and Professions Code
27 is amended to read:

28 4996.22. (a) (1) Except as provided in subdivision (c), the
29 board shall not renew any license pursuant to this chapter unless
30 the applicant certifies to the board, on a form prescribed by the
31 board, that he or she has completed not less than 36 hours of
32 approved continuing education in or relevant to the field of social
33 work in the preceding two years, as determined by the board.

34 (2) The board shall not renew any license of an applicant who
35 began graduate study prior to January 1, 2004, pursuant to this
36 chapter unless the applicant certifies to the board that during the
37 applicant’s first renewal period after the operative date of this
38 section, he or she completed a continuing education course in
39 spousal or partner abuse assessment, detection, and intervention
40 strategies, including community resources, cultural factors, and

1 same gender abuse dynamics. On and after January 1, 2005, the
2 course shall consist of not less than seven hours of training.
3 Equivalent courses in spousal or partner abuse assessment,
4 detection, and intervention strategies taken prior to the operative
5 date of this section or proof of equivalent teaching or practice
6 experience may be submitted to the board and at its discretion,
7 may be accepted in satisfaction of this requirement. Continuing
8 education courses taken pursuant to this paragraph shall be applied
9 to the 36 hours of approved continuing education required under
10 paragraph (1).

11 (b) The board shall have the right to audit the records of any
12 applicant to verify the completion of the continuing education
13 requirement. Applicants shall maintain records of completion of
14 required continuing education coursework for a minimum of two
15 years and shall make these records available to the board for
16 auditing purposes upon request.

17 (c) The board may establish exceptions from the continuing
18 education requirement of this section for good cause as defined
19 by the board.

20 (d) The continuing education shall be obtained from one of the
21 following sources:

22 (1) An accredited school of social work, as defined in Section
23 4991.2, or a school or department of social work that is a candidate
24 for accreditation by the Commission on Accreditation of the
25 Council on Social Work Education. Nothing in this paragraph shall
26 be construed as requiring coursework to be offered as part of a
27 regular degree program.

28 (2) Other continuing education providers, including, but not
29 limited to, a professional social work association, a licensed health
30 facility, a governmental entity, a continuing education unit of an
31 accredited four-year institution of higher learning, and a mental
32 health professional association, approved by the board.

33 (e) The board shall establish, by regulation, a procedure for
34 approving providers of continuing education courses, and all
35 providers of continuing education, as described in paragraphs (1)
36 and (2) of subdivision (d), shall adhere to the procedures
37 established by the board. The board may revoke or deny the right
38 of a provider to offer continuing education coursework pursuant
39 to this section for failure to comply with the requirements of this
40 section or any regulation adopted pursuant to this section.

1 (f) Training, education, and coursework by approved providers
2 shall incorporate one or more of the following:

3 (1) Aspects of the discipline that are fundamental to the
4 understanding, or the practice, of social work.

5 (2) Aspects of the social work discipline in which significant
6 recent developments have occurred.

7 (3) Aspects of other related disciplines that enhance the
8 understanding, or the practice, of social work.

9 (g) A system of continuing education for licensed clinical social
10 workers shall include courses directly related to the diagnosis,
11 assessment, and treatment of the client population being served.

12 (h) The continuing education requirements of this section shall
13 comply fully with the guidelines for mandatory continuing
14 education established by the Department of Consumer Affairs
15 pursuant to Section 166.

16 (i) On and after January 1, 2013, the board shall require all of
17 its licensees to take at least one continuing education course that
18 provides instruction on cultural competency, sensitivity, and best
19 practices for providing adequate care to lesbian, gay, bisexual, and
20 transgender persons. Persons licensed by the board before January
21 1, 2013, shall complete the course no later than January 1, 2017.
22 Persons who are newly licensed by the board on and after January
23 1, 2013, shall complete the course within four years of their initial
24 license issuance date or their second license renewal date,
25 whichever occurs first. The course shall be between two and five
26 hours in duration and shall contain content similar to the content
27 described in the publication of the Gay and Lesbian Medical
28 Association entitled “Guidelines for Care of Lesbian, Gay,
29 Bisexual, and Transgender Patients.” The board may specify the
30 required contents of the course by regulation consistent with this
31 subdivision. The board shall enforce this requirement in the same
32 manner as it enforces other required continuing education
33 requirements.

34 (j) The board may adopt regulations as necessary to implement
35 this section.

36 (k) The board shall, by regulation, fund the administration of
37 this section through continuing education provider fees to be
38 deposited in the Behavioral Science Examiners Fund. The fees
39 related to the administration of this section shall be sufficient to
40 meet, but shall not exceed, the costs of administering the

1 corresponding provisions of this section. For purposes of this
2 subdivision, a provider of continuing education as described in
3 paragraph (1) of subdivision (d) shall be deemed to be an approved
4 provider.

5 SEC. 9. Section 1337.3 of the Health and Safety Code is
6 amended to read:

7 1337.3. (a) The state department shall prepare and maintain
8 a list of approved training programs for nurse assistant certification.
9 The list shall include training programs conducted by skilled
10 nursing or intermediate care facilities, as well as local agencies
11 and education programs. In addition, the list shall include
12 information on whether a training center is currently training nurse
13 assistants, their competency test pass rates, and the number of
14 nurse assistants they have trained. Clinical portions of the training
15 programs may be obtained as on-the-job training, supervised by a
16 qualified director of staff development or licensed nurse.

17 (b) It shall be the duty of the state department to inspect a
18 representative sample of training programs. The state department
19 shall protect consumers and students in any training program
20 against fraud, misrepresentation, or other practices that may result
21 in improper or excessive payment of funds paid for training
22 programs. In evaluating a training center's training program, the
23 state department shall examine each training center's trainees'
24 competency test passage rate, and require each program to maintain
25 an average 60 percent test score passage rate to maintain its
26 participation in the program. The average test score passage rate
27 shall be calculated over a two-year period. If the state department
28 determines that any training program is not complying with
29 regulations or is not meeting the competency passage rate
30 requirements, notice thereof in writing shall be immediately given
31 to the program. If the program has not been brought into
32 compliance within a reasonable time, the program may be removed
33 from the approved list and notice thereof in writing given to it.
34 Programs removed under this article shall be afforded an
35 opportunity to request reinstatement of program approval at any
36 time. The state department's district offices shall inspect
37 facility-based centers as part of their annual survey.

38 (c) Notwithstanding Section 1337.1, the approved training
39 program shall consist of at least the following:

1 (1) A 16-hour orientation program to be given to newly
2 employed nurse assistants prior to providing direct patient care,
3 and consistent with federal training requirements for facilities
4 participating in the Medicare or Medicaid programs.

5 (2) (A) A certification training program consisting of at least
6 60 classroom hours of training on basic nursing skills, patient
7 safety and rights, the social and psychological problems of patients,
8 and elder abuse recognition and reporting pursuant to subdivision
9 (e) of Section 1337.1. The 60 classroom hours of training may be
10 conducted within a skilled nursing facility, an intermediate care
11 facility, or an educational institution.

12 (B) In addition to the 60 classroom hours of training required
13 under subparagraph (A), the certification program shall also consist
14 of 100 hours of supervised and on-the-job training clinical practice.
15 The 100 hours may consist of normal employment as a nurse
16 assistant under the supervision of either the director of staff
17 development or a licensed nurse qualified to provide nurse assistant
18 training who has no other assigned duties while providing the
19 training.

20 (3) At least two hours of the 60 hours of classroom training and
21 at least four hours of the 100 hours of the supervised clinical
22 training shall address the special needs of persons with
23 developmental and mental disorders, including mental retardation,
24 Alzheimer's disease, cerebral palsy, epilepsy, dementia,
25 Parkinson's disease, and mental illness.

26 (4) On and after January 1, 2013, at least two, but not more than
27 five, hours of the classroom training shall provide instruction on
28 cultural competency, sensitivity, and best practices for providing
29 adequate care to lesbian, gay, bisexual, and transgender persons.
30 Persons certified by the state department under this article before
31 January 1, 2013, shall complete the course no later than January
32 1, 2017. Persons who are newly certified by the state department
33 under this article on and after January 1, 2013, shall complete the
34 course within four years of their initial certificate issuance date or
35 their second certificate renewal date, whichever occurs first. The
36 instruction shall contain content similar to the content described
37 in the publication of the Gay and Lesbian Medical Association
38 entitled "Guidelines for Care of Lesbian, Gay, Bisexual, and
39 Transgender Patients." The state department may specify the
40 required contents of the course by regulation consistent with this

1 paragraph. The state department shall enforce this requirement in
2 the same manner as it enforces other required training requirements.

3 (d) The state department, in consultation with the State
4 Department of Education and other appropriate organizations, shall
5 develop criteria for approving training programs, that includes
6 program content for orientation, training, inservice, and the
7 examination for testing knowledge and skills related to basic patient
8 care services and shall develop a plan that identifies and encourages
9 career ladder opportunities for certified nurse assistants. This group
10 shall also recommend, and the department shall adopt, regulation
11 changes necessary to provide for patient care when facilities utilize
12 noncertified nurse assistants who are performing direct patient
13 care. The requirements of this subdivision shall be established by
14 January 1, 1989.

15 (e) On or before January 1, 2004, the state department, in
16 consultation with the State Department of Education, the American
17 Red Cross, and other appropriate organizations, shall do the
18 following:

19 (1) Review the current examination for approved training
20 programs for certified nurse assistants to ensure the accurate
21 assessment of whether a nurse assistant has obtained the required
22 knowledge and skills related to basic patient care services.

23 (2) Develop a plan that identifies and encourages career ladder
24 opportunities for certified nurse assistants, including the application
25 of on-the-job post-certification hours to educational credits.

26 (f) A skilled nursing or intermediate care facility shall determine
27 the number of specific clinical hours within each module identified
28 by the state department required to meet the requirements of
29 subdivision (d), subject to subdivisions (b) and (c). The facility
30 shall consider the specific hours recommended by the state
31 department when adopting the certification training program
32 required by this chapter.

33 (g) This article shall not apply to a program conducted by any
34 church or denomination for the purpose of training the adherents
35 of the church or denomination in the care of the sick in accordance
36 with its religious tenets.

37 (h) The Chancellor of the California Community Colleges shall
38 provide to the state department a standard process for approval of

- 1 college credit. The state department shall make this information
- 2 available to all training programs in the state.

O